

Jackson, Tricia

From: McQueen, Kelly <kmcque1@entergy.com>
Sent: Tuesday, February 23, 2016 12:26 PM
To: Jackson, Tricia; Spencer, Stuart
Cc: Montgomery, William; MEANS, PAUL N; Chad Wood - Gill Ragon Owen (wood@gill-law.com); JOHNSON, RICK N; BARLOW, CHUCK D
Subject: RE: Clean Power Plan Stay: Next Steps

Dear Tricia -

Regarding your request for feedback on questions 4-7 of your email below:

> 4) How do we, in our respective agencies, maximize the value of the resources already invested by the Agencies and stakeholders with respect to this rule and energy and environmental policy?

At this time, with the United States Supreme Court issuing a stay of the final Clean Power Plan (the "Rule" or "CPP") for the duration of the D.C. Circuit review of the Rule, Entergy suggests the agencies to bring the current stakeholder process to its logical close, with a final "wrap-up" stakeholder meeting or call which outlines next steps in the event the stay is or appears soon to be lifted. If the agencies choose to conduct a CPP stakeholder process during the stay, that process should be limited in scope to helping develop expertise among APSC and ADEQ staff concerning the Rule, its impacts, and the options for compliance and to considering general issues concerning how the state could most efficiently reduce CO2 emissions in the future, on a timeline that is reasonable and prudent - rather than concerning specific compliance with measures of the CPP that may be significantly modified, even if the rule survives litigation. Also, the state should stay involved in regional activities and analysis of the Rule and possible implementation scenarios.

> 5) What is our obligation under Act 382 of 2015 (Ark. Code Ann. 8-3-203(b)(2))? Is the State required to suspend activity during the stay?

To the extent Act 382 obliged the agencies to act prior to development of a state plan in compliance with the final CPP, a point Entergy does not necessarily concede, then any further obligation under Act 382 is stayed just as the Rule is stayed. Entergy notes that Ark. Code Ann. § 8-3-203(b)(2) requires that "[i]f the federal emission guidelines are not adopted or are adopted and subsequently suspended or held to be contrary to law, a state agency shall suspend or terminate, as appropriate, further action to implement or enforce the state plan." However, Entergy does not believe that this provision requires the State to suspend activity during the stay as there is not yet a state plan to be implemented or enforced.

> 6) How does the stay impact the obligation of the Arkansas Public Service Commission to provide a cost estimate for the Arkansas Clean Power Plan strategy?

The USSC stay decision does not appear to strictly alter ADEQ's obligation to coordinate with APSC in the preparation of a report that assess the effects of the state plan. However, there is not yet a state plan or "Arkansas Clean Power Plan Strategy" which APSC can assess the effects thereof and therefore, the APSC has no current obligation to provide a cost estimate.

> 7) How will the stakeholder group function during the stay, and are there benefits that may be derived from discussing energy and environmental policy implicated by other EPA rules?

Please see response to Question 4, above.

Thank you for your consideration of these responses. Please let me know if you have any questions or concerns.

Kelly

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-----Original Message-----

From: Jackson, Tricia [mailto:jacksonp@adeq.state.ar.us]
Sent: Tuesday, February 16, 2016 10:30 AM
To: BARLOW, CHUCK D
Cc: McQueen, Kelly; Spencer, Stuart; Montgomery, William
Subject: RE: Clean Power Plan Stay: Next Steps

Chuck,

While we have not set a timeframe for responses, we request timely responses to the questions posed. We intend to make a decision regarding whether to hold the March stakeholder meeting within the next 4 - 7 days and your input on these questions would be helpful in making this decision.

-----Original Message-----

From: BARLOW, CHUCK D [mailto:cbarlow@entergy.com]
Sent: Saturday, February 13, 2016 7:57 AM
To: Jackson, Tricia
Cc: McQueen, Kelly
Subject: Re: Clean Power Plan Stay: Next Steps

Tricia, do you have a time frame in mind in which you would like to receive responses? Thanks

Sent from my iPhone

> On Feb 12, 2016, at 11:58 PM, Jackson, Tricia <jacksonp@adeq.state.ar.us> wrote:

>

> Stakeholders,

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> The Arkansas Department of Environmental Quality and Arkansas Public Service Commission are pleased to have high-Court relief from the challenging federally mandated timeline with respect to the Clean Power Plan. Our agencies will continue, as we did before the CPP was issued, to engage our stakeholders on proposed and ongoing energy and environmental policy and regulation. We look forward to engagement that can now occur on a timeline and in a context

that makes sense and represents good stewardship of taxpayer resources for Arkansas, for our citizens, and for our regulated community.

>

> Our agencies are considering the following questions as we assess the most appropriate direction for Arkansas:

> 1) Will EPA continue to seek comment on related issues that were not finalized in the rule that are subject to the stay? (e.g. the Clean Energy Incentive Program)

> 2) If the Clean Power Plan is ultimately upheld, how will the new compliance schedule develop?

> 3) Will modeling entities continue to optimize modeling and find agreement on modeling assumptions during the stay?

> 4) How do we, in our respective agencies, maximize the value of the resources already invested by the Agencies and stakeholders with respect to this rule and energy and environmental policy?

> 5) What is our obligation under Act 382 of 2015 (Ark. Code Ann. 8-3-203(b)(2))? Is the State required to suspend activity during the stay?

> 6) How does the stay impact the obligation of the Arkansas Public Service Commission to provide a cost estimate for the Arkansas Clean Power Plan strategy?

> 7) How will the stakeholder group function during the stay, and are there benefits that may be derived from discussing energy and environmental policy implicated by other EPA rules?

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> Our agencies are contemplating the questions above and are particularly interested in your thoughts on questions 4 - 7. Please provide your timely feedback to the following email address: 111d@adeq.state.ar.us. We will consider your feedback as we look forward.