

Sponsors: Florida Municipal Electric Association; Illinois Municipal Electric Agency

In Support of Legislation to Give the Federal Energy Regulatory Commission a Formal Role in Determining the Potential Reliability Impacts of Major Federal Regulations

1 The electric utility sector is facing more than a dozen major environmental regulations between 2011 and
2 2020. These include the Mercury and Air Toxics Standards (MATS), Cross State Air Pollution Rule,
3 National Pollutant Discharge Elimination System Cooling Water Intake Structure Rule (316(b)), Coal
4 Combustion Residuals Rule, Effluent Guidelines for the Steam Electric Power Generating Point Sources,
5 New Source Performance Standards for New Fossil Fuel-Fired Power Plants, and the proposed Emission
6 Guidelines for Existing Fossil Fuel-Fired Power Plants (Clean Power Plan), among others. Collectively,
7 these air, water, and waste regulations by the U.S. Environmental Protection Agency (EPA) will be the
8 largest number of regulations to be promulgated in such a short period of time as well as the largest
9 collective cost to utilities and their customers in the history of the electric power sector.

10

11 In addition to these environmental regulations, the electric utility industry is subject to regulations by
12 other federal agencies, such as the Army Corps of Engineers and Bureau of Land Management. Many of
13 these regulations could have implications for bulk-power system (BPS) reliability. To date, the Federal
14 Energy Regulatory Commission (FERC or Commission), the federal agency Congress has charged with
15 responsibility for ensuring the reliable operation of the BPS, has had no formal role in examining the
16 potential reliability implications of these rules (other than advising EPA, case-by-case, on requests for
17 EPA administrative orders allowing generators to operate in noncompliance with the MATS rule).

18

19 Of particular concern to the American Public Power Association (APPA) and many others in the electric
20 utility industry is the potential impact of EPA’s proposed Clean Power Plan on grid reliability in certain
21 parts of the country. The proposed rule’s principle objectives are for utilities to generate more electricity
22 from natural gas and renewable resources and less with coal, and for the public to consume less
23 electricity. And in order to achieve the aggressive carbon dioxide reduction goals set for the states, the
24 proposed rule seeks to regulate not only the affected source—electric generating units—but rather the
25 production and use of electricity by customers (i.e., outside-the-fence regulation). Electric utilities,
26 regional transmission organizations, the North American Reliability Corporation (NERC), and FERC
27 have expressed concerns about potential reliability issues arising from the Clean Power Plan given the
28 impact the rule is likely to have on the use of coal-fired generation, and the need to replace that generation
29 with new natural gas and renewable resources that will require significant build out of pipelines,
30 transmission, and other infrastructure.

31

32 The Commission convened four technical conferences in 2015 to examine the possible effects of the rule
33 on electric reliability, energy infrastructure, and wholesale electricity markets. In a May 15, 2015, letter
34 to EPA Office of Air and Radiation Acting Assistant Administrator Janet McCabe, FERC’s five
35 commissioners laid out how the Commission “can continue to fulfill its responsibility on Bulk-Power
36 System reliability after EPA releases any final rule on the Clean Power Plan.” The letter discusses how
37 FERC could assist EPA with the administration of a reliability safety valve that provides affected entities
38 with the ability to petition EPA for temporary waivers from compliance obligations when “unforeseen
39 delays in implementation [] risk harm to reliability.” It also discusses how FERC could assist in the
40 reviewing of state plans “for interstate impacts on reliability (‘Reliability Monitoring and Assistance’).”
41 And while the letter makes it clear that FERC, within the limits of its existing authority, is willing to
42 assist EPA in examining reliability impacts from the Clean Power Plan, it also makes it clear that any
43 assistance it does provide is totally at EPA’s discretion.

44
45 Legislation has been introduced in the Senate to provide FERC with a formal role in reviewing
46 regulations that could impact bulk-power system reliability. Senate Energy & Natural Resources
47 Committee Chairman Lisa Murkowski (R-AK) introduced S. 1221, the Bulk-Power System Reliability
48 Impact Statement Act, on May 7, 2015, to require FERC and NERC to assess the potential impact of any
49 major federal regulation on the reliability of the nation’s bulk-power system. On the same day, the House
50 Energy & Power Subcommittee released a discussion draft on energy reliability and security (Title I of its
51 Architecture of Abundance energy legislation). Section 1202 of the discussion draft would give FERC
52 and NERC the ability to conduct independent, reliability analyses of major proposed or final rules to
53 “[e]valuate the anticipated effects of implementation and enforcement of the rule on national, regional, or
54 local electric reliability and resource adequacy.” While these provisions are aimed at the need to insert
55 the issue of electric reliability in future, significant, regulatory proposals across the federal government, if
56 enacted, they would indirectly help with the implementation of the Clean Power Plan by ensuring that
57 new regulations are evaluated in the context of such implementation.

58
59 APPA believes the Commission should be given a formal role in reviewing future and final regulations
60 that could impact bulk-power system reliability and is pleased that Chairman Murkowski and Energy &
61 Power Subcommittee Chairman Ed Whitfield (R-KY) are seeking to give FERC such authority in the
62 broader energy bills they are developing.

63

64 **NOW, THEREFORE, BE IT RESOLVED:** That the American Public Power Association (APPA)
65 believes the Federal Energy Regulatory Commission (FERC) should be given the authority to analyze the
66 potential reliability impacts of major proposed and final federal regulations; and

67

68 **BE IT FURTHER RESOLVED:** That APPA supports efforts by Congress to enact legislation that
69 would provide FERC with a formal role in determining the potential reliability impacts on major
70 proposed and final federal regulations.

**As adopted June 9, 2015, by the membership of the American Public Power Association at its
annual meeting in Minneapolis, Minnesota.**