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Stephen Coleman, Vice Chair, Frankfort
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Tom Herman, Louisville
Jason DeLambre, Frankfort
Martha Tarrant, Lexington
Ron Brunty, Whitesburg

Environmental Quality Commission
500 Mero Street, Capital Plaza Tower, 12th Floor
Frankfort, Kentucky 40601
Phone (502) 564-2674 Fax (502) 564-2676
E-mail: EQC@ky.gov
www.eqc.ky.gov www.kentucky.gov
Arnita Gadson, Executive Director

Kentucky Environmental Quality Commission

Public Forum

November 20, 2014

6:00 p.m. – 9:00 p.m.

Video conferencing

HOST SITE

**Kentucky State University
Aquaculture Center
Multipurpose Room 101
Frankfort, Kentucky**

PARTICIPATING SITES

University of Pikeville

**Community Technical Center
119 College St.
Suite 134 Video Conference Room
Pikeville, Kentucky**

University of Louisville

**Miller Information Technology Center, Room 55
Belknap Campus
Louisville, Kentucky**

Murray State University

**Crisp Building Room 106
300 Irvin Cobb
Paducah, Kentucky**

Morehead University

**Ginger Hall, Room 205
280 University Boulevard
Morehead, Kentucky**

Western Kentucky University

**Media and Technology Hall, Room 279
Bowling Green, Kentucky**

EQC Commissioners present

Steve Coleman, Vice Chairman

Scott Smith

Ron Brunty

Martha Tarrant

Public participants:

Deb Pekny

Bob Pekny

Jim McWilliams

Chris Schimmoeller

Steve Coleman, Vice Chairman

Meeting called to order at 6:15 p.m.

Cancellation of the November meeting due to technical difficulties was acknowledged and regrets extended to speakers.

Solar Rate Applications and Pipeline Review

Andrew Melnykovich, Director of Communications

Public Service Commission

Key facts:

1. Retail electric service in Kentucky is under PSC jurisdiction except for municipalities and TVA cooperatives – Rates and terms are regulated
2. Kentucky presently has no rates or rules for solar power. Permission granted by the General Assembly
3. Utilities are required to offer net metering to customers
4. Rules for small generators are the same as FERC (Federal Energy Regulatory Commission)
 - To qualify, 75% of power must come from renewables, biomass or waste

Wholesale power producers selling electricity into the grid are not regulated by PSC. Those with 10+ MW capacities require siting approval from the Kentucky State Board on Electric Generation and Transmission Siting Board, passed in 2002.

The only project approved is the Trimble County facility with 750 MW.

In 2012 Secretary Len Peters of the Energy and Environment Cabinet requested PSC to prepare a staff opinion examining possible scenarios involving the development of solar electric facilities in Kentucky. It was later withdrawn – it was being referenced as a legal document

Several Scenarios involving purchase, use and contracting of solar products were given and discussed.

PSC has no jurisdiction over thermal heat sales by a co-generation facility.

Net metering Statute:

- Specifies that credits accrued by customers using variable rate structures may be used only to offset usage at the rate in effect when the credits are produced. Thus, on-peak credits can be used only to offset on-peak usage.
- Prohibits conversion of excess credits into cash.

The PSC operates as a court of law with judicial process.

EQC requested clarity of pipeline oversight due to the Blue Grass Pipeline project, a NG (Natural Gas) and NGL (Natural Gas Liquids) supplier

Natural Gas Liquid pipeline regulation in Kentucky

- Safety – (PHMSA) Federal Pipelines and hazardous Materials Safety Administration
- Siting issues
 1. No state siting requirement
 2. No pre-approval required from Federal Energy Regulatory Commission (unless converting existing interstate natural gas transmission pipeline)
 3. A bill was proposed during the 2014 Regular Session of Kentucky General Assembly to require approval by Siting Board of CO₂ pipelines.
 4. No legislation was passed for NGL pipeline oversight

EQC Discussion:

Question: Why the initial purchase of solar rates are higher than the buy-back purchase rate.

Response: Wholesale rates factor service charges and metering facility expense. In Kentucky there is no difference in the rate.

Credit Lifespans – All credits stay with the property. Credits cannot be transferred to another property.

Who defines the tariffs - PSC has to approve and review tariffs when a utility makes a filing.

Fees for Solar generation – There are fixed fees for customers generating their own power, these are hooked to the utility for back-up only. As sales decline, the rate will have to increase for customers that do not have solar rates, or smaller panels or use less power. No fees apply to customers who go totally off the grid.

Kentucky uses less than 1% solar.

Cabinet Perspective on the Clean Power Plan
John Lyons, Assistant Secretary for Climate Policy
Kentucky Energy and Environment Cabinet

Plans are being made to work with the new Carbon regulations. Regardless of the outcome on any legal challenges to EPA's 111(b) and 111(d) rules, many utilities are making plans as though carbon constraints are inevitable.

Greenhouse Gas Policies were introduced in Congress, examples given:

- McCain-Lieberman Stewardship Act (2003)
- Lieberman-Warner Climate Security Act (2008)
- Waxman-Markey American Clean Energy and Security Act (2009)

2014 – EPA's proposed rule for existing EGU sources combined with its proposed rule for new EGU sources represents the most significant energy and environmental policy in 40 years

Important Dates

June 1, 2014 – Proposed rules for existing sources under Clean Air Act Sections 111(d) and modified sources under 111(b), issued.

October 16, 2014 – Comments were due on 111(b) Modified and Reconstructed Sources (Comments have been submitted)

December 1, 2014 – Comments were due on 111(d) – presently in the governor’s office.

June 1, 2015 – Issue date on Final rules for new, M&R (modified and reconstructed) and existing sources

June 30, 2016 – Deadline for states to submit section 111(d) implementation plans.

Greenhouse Gas Proposed Rules

New Sources 111(b)

Proposed Rule for New Sources under CAA Section 111(b) – Published January 8, 2014

EPA is encouraging efforts for alternative energy usage
States adopt the Command and control rule

Existing Sources (111(d))

Published June 18, 2014

Establishes state-specific CO_x intensities
Provides multiple pathways for compliance
States will establish implementation plans, working with stakeholders and legislature

Features of Proposed 111(d)

Existing Source Rule

Targets are set using a combination of efficiency gains at the power plant, raising capacity of existing NGCC, renewables/nuclear and energy efficiency
The Proposed Kentucky Statewide Fleet Average for 2030 final goal = 1763 lbsCO₂/MWh

Kentucky’s rates were lenient in comparison to other states
Features of the proposed rule allows a range of options (including energy efficiency, multi-state approaches, fuel switching such as natural gas, nuclear and renewables) for compliance

Calculations of the process were discussed for the year 2030 goal for 111(d)
Kentucky rate reductions from 2012 equal -18.6%

A breakdown of the Building Block Reductions, 1763 lbs/MWh
Energy Efficiency – 46%



HRI – 32%
Renewables – 7%
Re-dispatch – 15%

Potential 111(d) Comment Topics Economic Implications and Impacts

- NODA (Notice of Data Availability)
- Kentucky’s State-Specific Goal –Technical support document
- Consequences
- Agency Resources
- Flexibility

Modified and Reconstructed sources standards were discussed

Kentucky’s Projected Electricity Generation in 2020 W/o GHG regulations

Average fleet emissions rate will be approximately 1,890 lbsCO₂/ MWh
Coal – 78%, many of the units will shut down
Natural Gas- 19%
Hydro – 2.50%
Biomass – 0.50%

HB 388

- Limits the state plan to cost-effective efficiency gains at the plant (e.g. turbine or boiler upgrades)
- Prohibits fuel switching
- Prohibits co-firing other fuels with coal
- Prohibits limiting utilization of the EQU
- Requires separate coal and natural gas categories
- Requires working with PSC
- Must be stakeholder driven
- Unanimously passed during the 2014 General Session

EQC discussion:

There is a need Measures used to know when energy efficiency in one county is really providing reduction. Energy Efficiency must be incentivized

Coal has to have a place in KY's energy profile.

Approval of minutes –

June, 2014 annual meeting

Motion to approve - Commissioner Brunty, Commissioner Tarrant, 2nd, approved unanimously.

Open Public comment period:

Mr. and Mrs. Pekny - expressed appreciation for the assistance on the Bluegrass Pipeline initiative. The issue of pipeline monitoring was addressed -- 300,000 gallons a day leakage before registering on the monitoring equipment, an issue of contention.

A new project of concern - Kinder Morgan running pipes from the Gulf Coast will use antiquated re-purposed lines for NGL's. This is perhaps a larger threat because of the use of old infrastructure. Will keep EQC apprised. Questioned if any recommendation on oversight was forthcoming.

EQC discussed possibility of the State having a more proactive role in oversight

Executive Director's Report

November 20, 2014

Update from June '14 annual meeting:

1. Oversight committee recommendations on the Pipeline. Tom Fitzgerald, Director, Kentucky Resource Council, stated that PSC has the oversight for the Pipeline initiatives. Comments forwarded.

2. DOF (Division of Forestry)– Leah MacSword, Exec. Director, stated Rep. Leslie Combs' bill (Timber Theft) made it through the House and stalled in the Senate – maybe a place to start. She deferred to Bob Bauer with the Kentucky Forest Industries Association to speak with the Commission.

Bob is organizing a group made up of individuals representing organizations mentioned in the Combs' bill to begin discussions as an ad hoc committee. At present, he is currently identifying potential members. He may be able to answer questions as to the inability or ability, of her bill getting through the Senate.

3. Possible changes in the EQC mandate: Under (6) b. Eliminate reference to “control of noise” in the wording and eliminate Para (7) altogether which establishes an advisory committee on noise control. All the rest of it is pretty substantial and does not need to be watered down, perhaps change of verbiage to address the ability of technology usage, unless there is something more substantive that needs to be added. More discussion from the Commission is needed.

4. The EJ (Environmental Justice) conference is in the works. The tentative date is the first quarter, or second quarter 2015. EPA will provide funding. I am working in partnership with Larry Taylor in developing the oversight committee, scheduling and substance. We meet as needed either in person or by phone.

5. I haven’t done much with the publication – will act on that when the Biennial report is finished. It has been a challenge. It will not be complete until the end of the calendar year to include the last few minutes’ overview.

6. Talked with Representative Marzian regarding the Kentucky Energy Portfolio (will forward to all commissioners). She says she wants to pull others in that were a part of the development of the document. She was very receptive to the idea that due to its complexity and all-encompassing inclusiveness of many objectives, it may be overwhelming to many legislators. We can target specific areas of the document and try to make a strong recommendation to see where that lands. – More discussion is needed.

7. Working with DAQ on air monitoring status in Louisville – Goal is to restore it. Three meetings were held to discuss monitoring in Louisville. One in August and September with the Kentucky Department of Air Quality, University of Louisville, Louisville Metro Air Control District and the West Jefferson County Community Task Force. One in September, with the Louisville Metro Council regarding re-establishing air monitoring and possible funding. The air monitoring system is down due to changes in housing and accommodations. More meetings are being scheduled for planning.

8. Worked with EPA, per their request on the Kosmos Cement Co., in southwest Jefferson County, community meeting scheduled for September 17th, 6:00 p.m. Met with EPA on Wednesday at 10:00 a.m. It was regarding an acre of land that is a landfill, final decision, to cap. No levels of emissions found at this time above acceptable levels.

9. Received word of the monitoring results of the Lees Lane Landfill home monitoring. Donna Seadler, EPA oversight, wants to schedule a call with all parties prior to releasing the report.

10. Black Leaf – (This is very positive. There were “Gang” members using the site and had actually burned down one of the buildings – a little bit more exposure to the residents) See comments below, submitted by Tim Hubbard, Asst. Dir., DWM.

Residential Cleanup

The excavation and soil removal cleanup for the 68 residential yards was completed by the end of January. Workers completed placing sod on the last yards and other minor work by the end of June/early July.

Black Leaf Sampling

The Division approved of the Sampling Plan submitted by the responsible parties for the former Black Leaf site in June. During the week of August 25, contractors for the companies mobilized to the Black Leaf site to begin initial surveying, utility clearance, and inspection of the storm sewers on-site. They are scheduled to return to begin the sampling next week (Sept. 15) and this work will continue through the 1st week in October, contingent on weather conditions.

Lab analysis of the samples will be completed and a report of the sampling will be prepared by the contractors which will be submitted in 3-4 months.

Once the report is approved indicating the extent of contamination has been defined, the Division will work out an agreement with the responsible parties on cleanup of the site. The agreement will require the parties to submit a cleanup plan which meets the state’s cleanup requirements and is protective of human health and the environment. The goal is to have the plan approved so the cleanup can take place in 2015. I understand there has been some interest in the property by others for reuse. If the property is purchased and a potential reuse or redevelopment is planned, this could be considered by the responsible parties as part of the overall site cleanup plans and design.

Sediment/Stormwater Controls

Division of Waste Management met with EPA and the contractors for the

responsible parties on the Black Leaf site the week of August 25 to discuss the stormwater/sediment controls. The companies have agreed to take on the responsibility for inspecting and maintaining the controls through the cleanup of the site, which was formerly being performed by EPA. They are working on a plan which will be submitted to the Division for approval.

□EPA and their contractor completed additional improvements to the existing sediment controls at the Black Leaf site in August. This work included construction of a silt trench (see attached photo provided by Art Smith) running east along the alley on the 1600 block of Wilson Avenue to help with catching any sediment that may move via storm water before it gets to the existing silt fence. According to Art, the silt fences that have been installed between the Black Leaf site and the alleyway have never accumulated any sediment behind them, and they require very little maintenance. Also very little sediment has accumulated in the rock check dams that have been in place since 2012; only 2 cubic yards or less have been removed during that time, so this indicates that the movement of contaminated sediments off-site does not appear to be a significant problem and that the controls are doing their jobs.

11. EQC has been requested to partner with the UofL Law school to develop a white paper for the National Environmental Justice Advisory Council on ways EJ can have more judicial oversight. (A challenge)

12. Working with the Kentucky Department of Air Quality and the Kentucky Division of Waste Management on the Coal Ash issue at the request of Senator Gerald Neal – Louisville. The EPA decision on whether to make Coal Ash a hazardous waste vs. solid waste will be final in December. His question: “Is Kentucky prepared to handle either one of the decision?”

Submitted for review by:
Arnita Gadson
Executive Director

Annual report status

Biennial Report Draft was submitted to Commissioners. All comments are due to Commissioner Brunty by second week of December, who will synopsis and return to the Executive Director for the next meeting.

Next Meeting: January 22, 2015

Meeting adjourned: 8:15 p.m.

THESE ACTIONS, ALONG WITH THE AGENDA ITEMS, MAKE UP THE OFFICIAL MINUTES, WHICH ARE ON FILE IN THE OFFICE OF THE SECRETARY

Signed by:

Stephen A. Coleman, Chairman

Date: _____