

Prepared Remarks of  
Chairman Donna L. Nelson  
Public Utility Commission of Texas  
(Chairman Nelson's testimony often deviates from her prepared remarks)

Good morning Chairman Harless and members. I am Donna Nelson, Chairman of the Public Utility Commission. It is a pleasure to speak with you today. The EPA's proposed greenhouse gas rule is an overwhelming threat to our state, our competitive market, customer affordability, and electric reliability. I intend to discuss some of the possible ramifications for Texas, both inside and outside of ERCOT. I believe that yesterday Brian Lloyd, the Commission's Executive Director, provided you with an overview of the different market structures and electric transmission organizations within Texas and Chairman Shaw provided you with an overview of the proposed rule. My comments will build upon theirs.

### **Introduction**

There are fundamental preemption issues with the EPA's proposed rule. For example, the rule as proposed will effectively preempt states from establishing their own renewable energy and energy-efficiency standards. The current RPS and energy-efficiency standards were

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established by this Legislature. Because ERCOT is located entirely within the boundaries of the State of Texas and has no AC connections to other states, Texas has jurisdiction over the wholesale, retail, and transmission issues within ERCOT. Texas is the only state in the continental US that has such authority. This rule effectively transfers authority for those issues to the federal government.

### **EPA Punishes Texas**

The rule as proposed would also punish states that are first movers in installment of renewable energy, like Texas. Even though it is clear that the intent of the rule is to move the electricity mix to more natural gas and renewables, compliance will be the toughest for states like Texas that have already moved their electricity mix that way.

The EPA claims that the proposed rule will cut carbon emissions from the power sector by 30% nationwide compared with 2005<sup>1</sup> levels. In reality, the EPA is requiring reductions based on a 2012 baseline.

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<sup>1</sup><http://yosemite.epa.gov/opa/admpress.nsf/bd4379a92ceceecac8525735900400c27/5bb6d20668b9a18485257ceb00490c98!OpenDocument>.

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That means that the EPA will not account for any emissions efficiencies or renewable energy installations that were completed before 2012, yet will take credit for all of the reductions that are attributable to the actions Texas has taken. Texas has been a leader in building transmission, including transmission that carries renewable resources. The vast majority of our wind fleet was installed before 2012 and we won't receive any credit for those resources.

The EPA rule as proposed requires Texas to increase the amount of renewable energy by 150%, as shown on page 2 of the slides you have in front of you.<sup>2</sup>

Texas is the leading state in renewables. Texas has more installed wind capacity than any other state. 14% of our installed capacity in the ERCOT footprint is wind generation. We get nearly 10% of our energy from renewables in ERCOT. At the PUC, we are actually looking at some of the unintended consequences of having too much renewable

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<sup>2</sup> Panelists at the Workshop in Project No. 42636, *Commission Comments on Proposed EPA Rule on Greenhouse Gas Emissions for Existing Generating Units* on August 15, 2014, including Mike Nasi, Jackson Walker.

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capacity. Instead of recognizing that Texas has invested billions in building transmission that will allow renewable generation to move from West Texas and the Panhandle to the load centers of the state, the EPA rule penalizes the state by requiring us to increase renewable capacity by as much as 150%. California, the state with the second-largest renewable fleet, is only being required to increase renewable energy by 37%.<sup>3</sup>

The EPA rule requires Texas to generate 20% of its energy from renewables. The 20% requirement has no relationship to Texas. Instead, it is based on an RPS adopted in Kansas.<sup>4</sup> As I understand it, the Kansas requirement has a safety net provision: the mandate is required only to the extent that it does not increase customer's electric bills by more than 1%. While the EPA lifted the Kansas mandate from Kansas law and applied it to Texas, the EPA failed to similarly lift the restriction that protects customer's electric costs.

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<sup>3</sup> Panelists at the Workshop in Project No. 42636 on August 15, 2014, including Charles Griffey, Texas Industrial Energy Consumers (TIEC)

<sup>4</sup> *Id.*

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## **Reliability**

Let's look at what the proposed rule will do for electric reliability in Texas. According to the EPA's own analysis, more than 40 coal and gas units will have to be retired in Texas. The proposed rule mandates a 52% reduction in coal generation. The EPA's modeling forecasts the closing of 16,000 MW of coal and natural gas steam units across Texas. If you look at page three of my slides, you can see how radically Texas is affected by this rule.

### **How will that affect reliability?**

I will step you through the analysis being done on that. First, I'd ask you to look at page 4 of the slides I gave you.

- Texas is in three transmission organizations and a coordinating council. 85% of the electricity consumed within Texas is consumed in the ERCOT area, the bright green area that covers most of the state. ERCOT is located entirely within the boundaries of Texas. ERCOT is in the process of conducting a study to

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determine what effect this rule will have on reliability. We expect to receive the results of that study in November.

- The Southwest Power Pool portion of Texas is in teal. The Texas portion of the SPP grid is interconnected with all or parts of seven other states: Oklahoma, Kansas, Nebraska, New Mexico, Missouri, Arkansas, and a small portion of Louisiana. Even though SPP is located in several states, it has one control center. The utilities that provide service in Texas also provide service in other states in the SPP footprint. SPP is in the process of modeling both the impacts to the transmission system and the impact to the generation reserve margin caused by the EPA's greenhouse gas rule. We received the preliminary results yesterday. In terms of reliability, when SPP ran the modeling relating to the impact to the transmission system, the algorithm couldn't produce results because of reactive deficiencies. And those deficiencies were the worst in Texas, Oklahoma, and Kansas. What does that mean? It

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means that there will be significant loss of load or rolling outages.

When SPP measured the impact the EPA rule would have on SPP's reserve margin, SPP's study indicated that the reserve margin would drop from its current level of 34% to 4.7% by 2020 and to -4% by 2024. The reserve margin requirement in SPP is 13.6%.

- And, finally, the pink area located on slide 4 is the Entergy area of Texas, which is in the Midcontinent Independent Service Operator. MISO includes part or all of 14 other states. MISO estimates that the rule could result in the shutdown of an additional 14,000 MW of coal.

## **Cost**

Let me shift my focus from reliability to cost.

The ERCOT competitive market delivers some of the lowest retail prices in the country. At a time when electricity rates are rising in many areas of the United States, the ERCOT market is delivering rates that are

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lower than the last regulated rates in 2001, 13 years ago. The proposed rule threatens our low customer prices. The Brattle Group estimated that ERCOT and SPP energy prices will increase by at least \$10-\$18 per MWh in 2030 under the proposed rule,<sup>5</sup> while others believe that increases of \$35/MWh<sup>6</sup> are more realistic. This year wholesale prices in ERCOT have averaged around \$40 a MWh. That means a projected increase from 25% to almost 90%, up to \$15 billion annually.

The proposed rule is also fundamentally inconsistent with competitive electric markets, which has results that I believe are impossible to quantify. All resources in ERCOT, including generation and demand response, bid into the ERCOT market every 5 minutes. ERCOT accepts the bids of the resources that are most economic. That is called economic dispatch. The proposed greenhouse gas rule by contrast would have fuel mix decisions being driven by EPA mandate, not economics. Instead of having economic dispatch within ERCOT,

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<sup>5</sup> [http://brattle.com/system/publications/pdfs/000/005/025/original/EPA's\\_Proposed\\_Clean\\_Power\\_Plan\\_-\\_Implications\\_for\\_States\\_and\\_the\\_Electric\\_Industry.pdf?1403791723](http://brattle.com/system/publications/pdfs/000/005/025/original/EPA's_Proposed_Clean_Power_Plan_-_Implications_for_States_and_the_Electric_Industry.pdf?1403791723).

<sup>6</sup> TIEC Comments in Project No. 42636.

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the EPA rule mandates environmental dispatch, which turns the competitive market that has so successfully delivered low electric prices to Texans on its head.

### **SWEPCO**

Let me go back for a second and talk a bit about the portion of Texas that continues to be served by vertically-integrated, regulated utilities within the footprint of the Southwest Power Pool. Texas' vertically-integrated utilities with a significant amount of coal generation are going to face some difficult challenges as they try to comply with the proposed rule and previously-adopted environmental regulations. Regulated utilities in Texas that are making major investments to comply with EPA requirements such as MATS, the Mercury and Air Toxics Standard, may end up being required to retire plants because of the proposed greenhouse gas rule, after spending hundreds of millions of dollars on retrofits to bring them into compliance with recently-adopted standards, like MATS. For instance,

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SWEPSCO, with a mix of natural gas and coal generation, will have to retire almost 17,000 MW of generation by 2020 under the proposed rule. That is 30% of SWEPSCO's total installed capacity and 100% of baseload generation in the East Texas pocket of Southwest Power Pool.<sup>7</sup> SWEPSCO is a vertically-integrated, fully regulated entity. That means that Texas ratepayers will be required to pay for the retrofits.

### **International Lessons**

In large part due to our competitive market, Texas' emissions are going down. Under strict environmental regulation, Europe's carbon emissions are going up. For example, Germany's emissions rose by 5.5% from 2010 – 2013.<sup>8</sup> As they have put more renewables on the system they have also increased their reliance on coal. They have increased fossil generation by 16% since 2000, yet their demand has actually decreased since 2010. Nuclear is being phased out in Germany, but some plants are closing earlier than planned for financial reasons.

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<sup>7</sup> SWEPSCO Comments in Project No. 42636.

<sup>8</sup> <http://www.bloomberg.com/news/2014-06-19/rising-german-coal-use-imperils-european-emissions-deal.html>.

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E.ON said it plans to shut down one of its nuclear reactors because subsidized renewable energies and a tax on nuclear fuel have eroded the plant's profitability.<sup>9</sup> Germany spends over 20 billion US dollars (16 billion euros) on renewable subsidies annually; taxes and subsidies have increased by 240% since 1998.<sup>10</sup> These costs are astronomical and the policies have failed.

In Australia, a carbon tax was passed in late 2011, which was ultimately repealed this summer due to backlash from the public. The current Prime Minister, Tony Abbot, was quoted as saying that the carbon tax was a \$9 billion a year handbrake on the economy.<sup>11</sup> Modeling by the Australian Treasury suggests that removing the carbon tax will leave average households' costs of living around \$550 a year lower than they would be under the tax. It is also estimated that electricity prices should be about 9% lower.<sup>12</sup> Retail electric prices in

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<sup>9</sup> <http://online.wsj.com/news/articles/SB10001424052702304418404579467023883510280>.

<sup>10</sup> <http://questevents.com.au/sites/default/files/Stijn%20Koppers.pdf>.

<sup>11</sup> <http://online.wsj.com/articles/australia-repeals-carbon-tax-1405560964>.

<sup>12</sup> <http://www.environment.gov.au/climate-change/repealing-carbon-tax>.

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Eastern Australia are three or four times the competitive prices in ERCOT.

### **Closing Remarks**

It is obvious that the proposed greenhouse gas rule disproportionately affects Texas. Texas has 11% of the country's electric generation, yet the EPA requires Texas to contribute almost 18% of the emissions reductions in this proposed rule. The EPA has Texas reducing emissions more than 27 other states combined.<sup>13</sup>

On August 15<sup>th</sup>, the PUC held a joint workshop with the Texas Commission on Environmental Quality and the Railroad Commission to get input from Texas stakeholders regarding the effect that the proposed rule will have on electric reliability and cost. The Commission will continue to work with ERCOT, SPP, and MISO to ensure that we understand the effects that the EPA's greenhouse gas rule will have on reliability and cost. The Commission intends to submit comments on

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<sup>13</sup> Panelists at the Project No. 42636 Workshop on August 15, 2014, including Charles Griffey, TIEC.

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the EPA. We will continue to work with TCEQ as we shape those comments.

This Legislature restructured the electric market within ERCOT in 1999. The restructured market has lowered emissions, lowered prices, and driven innovation. Our market is the envy of those across the United States and across the world. The EPA's most recent rule would destroy the underpinnings of that market, and in so doing, would destroy the electric market that powers Texas.

There is no doubt that statutory changes will be needed in order for states to comply with the rule. The rule, as proposed, will have the effect of introducing a type of regulation over generation that has been removed in restructured states, including Texas. State agencies will have to oversee the generation mix not only to ensure reliability, but also to make sure that the "right" types of generation make-up the mix.

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No one will know the final requirements of the rule until at least June 1st, but states are nonetheless required to submit implementation plans in 2016 under the proposed rule.

Thank you. I am happy to answer any questions.

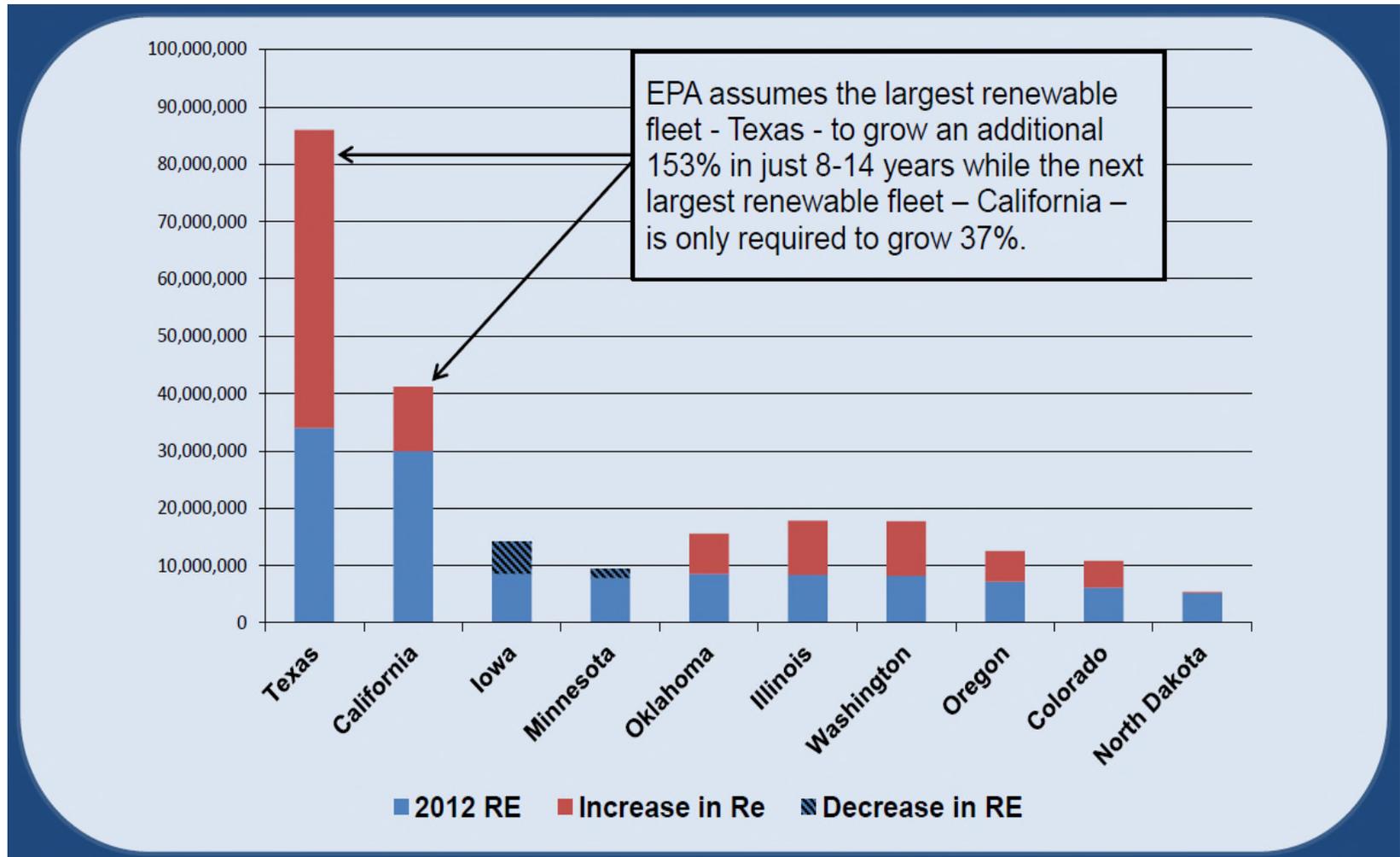


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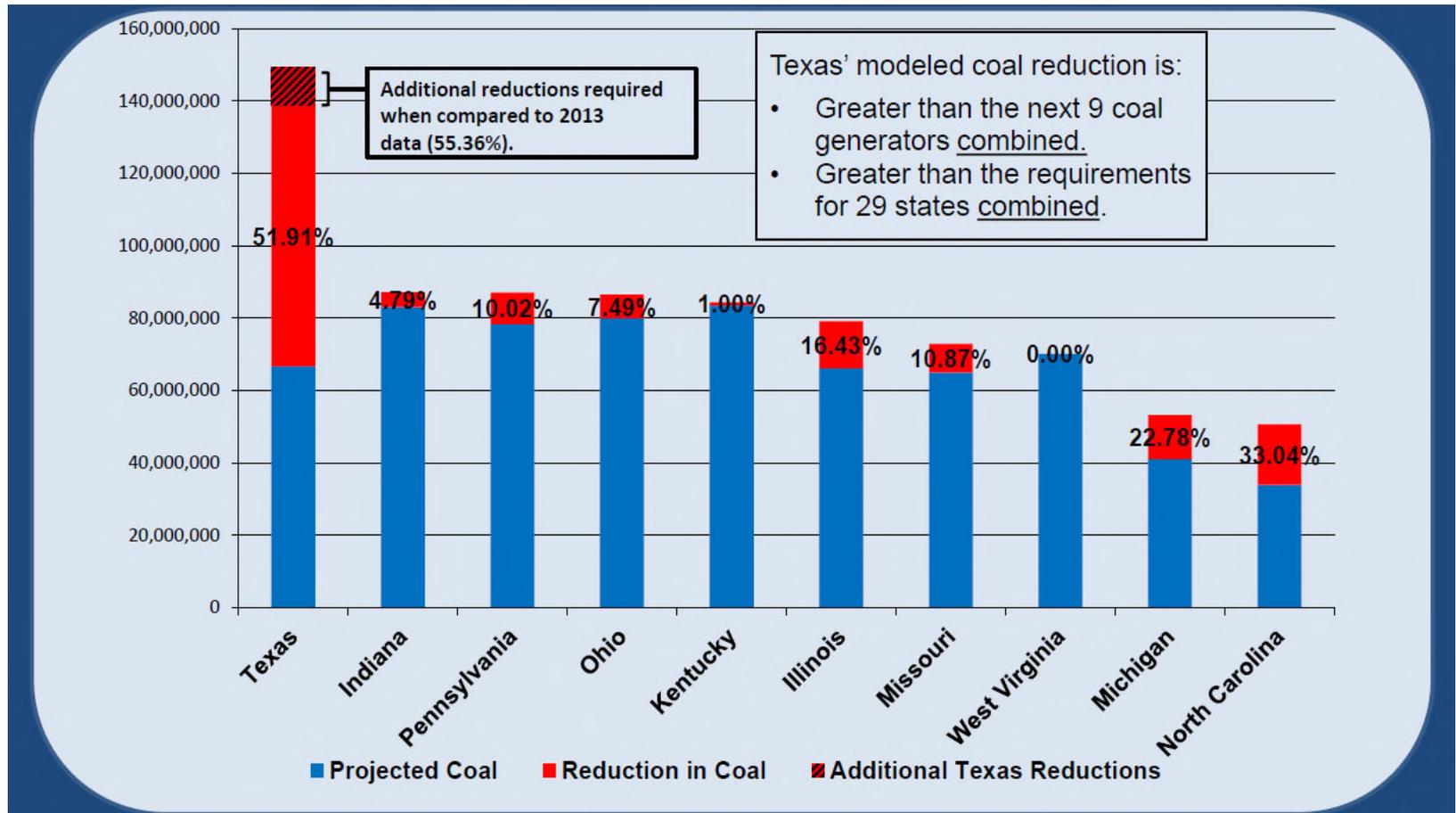


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# EPA Renewable Mandates



# EPA's Required Coal Reductions



# The Texas Electric Footprints

