

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 2nd Meeting of the 2024 Interim

July 18, 2024

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Natural Resources and Energy was held on July 18, 2024, at 1:00 PM in Room 154 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith Co-Chair; Representative Jim Gooch Jr. Co-Chair; Senators John Schickel, Adrienne Southworth, and Gex Williams; Representatives Jared Bauman, John Blanton, Lindsey Burke, Beverly Chester-Burton, Myron Dossett, Ryan Dotson, Chris Fugate, Daniel Grossberg, DJ Johnson, Bobby McCool, Tom Smith, Bill Wesley, and Richard White.

Guests: Todd Trapp, Director, Division of Family Support, Department for Community Based Services, Cabinet for Health and Family Services; Rick Baker, Executive Director, Community Action Kentucky, Inc.; Tony Hatton, Commissioner, Department for Environmental Protection, Energy and Environment Cabinet; Allison Wood, Partner, McGuireWoods LLP; Vic Maddox, Counsel to the Attorney General for Special Litigation, Office of the Attorney General.

LRC Staff: Stefan Kasacavage, Kayla Carroway, Tanya Monsanto, and Rachel Hartley.

Approval of minutes for the meeting of June 6, 2024

A motion to approve the June minutes was made by Senator Schickel and seconded by Representative Burke. The minutes were approved by voice vote.

Presentation and Public Hearing on the Low Income Home Energy Assistance Program (LIHEAP) Block Grant Application - Federal Fiscal Year 2025

Todd Trapp stated the Department for Community Based Services (DCBS) administers the Low Income Home Energy Assistance Program (LIHEAP) in partnership with Community Action Kentucky (CAK) and the Kentucky Housing Authority. LIHEAP was established in 1982 to meet home energy needs for low-income households. DCBS

anticipates the federal funding for 2025 to be \$58 million. Less than 10 percent is used for administrative costs. Mr. Trapp provided an overview of the benefits of LIHEAP, which include bill payment, emergency assistance, and weatherization activities.

Rick Baker stated CAK administers LIHEAP in all Kentucky counties with the assistance of 23 community action member agencies.

In response to Senator Smith, Mr. Trapp stated the cost of metered fuel for participating households in LIHEAP is paid directly to the utility.

In response to Representative Gooch, Mr. Trapp stated historically DCBS did not always have the funding for the summer cooling program, but since the COVID-19 pandemic, DCBS has been able to administer the program due to increased federal funding.

In response to Representative Johnson, Mr. Baker stated each community action member agency has a board of directors that include the county judge/executive. The agencies do community outreach such as giving local news interviews and managing social media.

In response to Representative White, Mr. Trapp stated LIHEAP's summer cooling program is offered only when additional federal or state funds are available. In 2024, the funding was available and the summer cooling program will end in September.

A motion was made by Senator Smith and seconded by Representative Burke to approve the Findings of Fact for the LIHEAP State Plan for Federal Fiscal Year 2025, including that the block grant application does meet the standards and criteria set out in KRS 45.353. The motion passed by voice vote.

Discussion of US EPA's Rule on Greenhouse Gas Standards for Fossil Fuel-fired Power Plants

Tony Hatton stated the United States Environmental Protection Agency's (EPA's) federal rule on greenhouse gas standards for fossil fuel-fired power plants will have potential impacts on current and future electric generation in Kentucky. The federal rule requires the state to prepare and submit a state plan to implement the rule by May 9, 2026.

The federal rule repeals the Affordable Clean Energy (ACE) Rule, revises the greenhouse gas emissions standards for fossil fuel-fired power plants that undertake a large modification and for new and reconstructed fossil fuel-fired stationary combustion turbine electrical generating units (EGUs), and sets emission guidelines for greenhouse

gas emissions from fossil fuel-fired power plants. The federal rule requires EGUs to capture 90 percent of emissions by 2032.

Mr. Hatton stated carbon capture and sequestration (CCS) is not appropriate as a best system of emission reduction. The EPA assumption of sufficient obtainable capacity with CCS by 2032 is not feasible. Under the federal rule, if CCS is not available then EGUs would either cease operation, operate in noncompliance, or operate under emergency provisions.

Additionally, Mr. Hatton stated the federal rule conflicts with state law, which prohibits EGUs from switching from coal to other fuels, prohibits co-firing fuels with coal, and prohibits limiting the utilization of an EGU in order to reduce carbon dioxide emissions.

In response to Representative Blanton, Mr. Hatton stated there are two EGUs that have been approved to retire before 2032, and there are 26 EGUs that will operate past 2032 and will therefore be impacted by the new rule.

In response to Senator Smith, Mr. Hatton stated he knew of numerous state attorneys general that have joined a complaint challenging the federal rule. The Energy and Environment Cabinet filed adverse comments to the federal rule.

Allison Wood stated there are 27 states challenging the federal rule and 22 states are in support of the rule. Nevada is the only neutral state.

Ms. Wood gave an overview of her experience in the electric generation industry and a brief history of the EPA's regulations of greenhouse gases from fossil fuel-fired power plants under the Clean Air Act. This is the EPA's third attempt to regulate greenhouse gas emissions from fossil fuel-fired power plants.

The legal issues surrounding the federal rule include: CCS does not meet the legal requirements to be considered adequately demonstrated; standards cannot be set to accommodate an uncertain and unproven technology; the infrastructure needed to capture and store 90 percent of EGUs carbon emissions does not exist; the rulemaking is a violation of the major questions doctrine; and the rule interferes with states' rights.

In response to Senator Smith, Ms. Woods stated the federal rule would threaten grid reliability and will increase the cost of electricity for customers.

Vic Maddox stated Kentucky is part of a coalition of 27 states that have filed a petition to challenge the federal rule in the District of Columbia Court of Appeals. The federal

rule went into effect July 8, 2024, and the Kentucky Attorney General filed a brief in support of the stay motion that is pending before the District of Columbia Circuit. Mr. Maddox provided a brief summary of the declarations filed in the District of Columbia Court of Appeals.

Mr. Maddox stated the federal rule effectively seeks to shut down coal-fired electric generation and severely limit natural gas electric generation. The federal rule is attempting to compel a shift to renewable electric generation.

In response to Representative Gooch, Mr. Maddox stated from 2000 to 2022 carbon dioxide emissions in China and India have increased 7 billion tons and 1.5 billion tons, respectively, and the US has decreased its carbon dioxide emissions during the same period by 900 million tons. There is a shift in carbon dioxide emissions from the US to China and India, which are reaping the benefits.

Adjournment

There being no further business, the meeting was adjourned.