

**Kansas Corporation Commission**  
**Commission Meeting**  
**January 12, 2016**  
10:00 a.m. 1<sup>st</sup> floor hearing room  
KCC Offices, 1500 SW Arrowhead, Topeka, Kansas

**MINUTES**

The Commission convened the regularly scheduled open meeting of the Commission at 10:00 a.m. on January 12, 2016 in the 1<sup>st</sup> floor hearing room of the Kansas Corporation Commission, 1500 SW Arrowhead, Topeka, Kansas.

Present: Chair Albrecht, Commissioner Emler and Commissioner Apple. The following were considered by the Commission:

1. **Consent Agenda:** Commissioner Emler moved for approval of the Consent Agenda: All other listed matters as presented for January 12, 2016 on the 14 page document attached hereto as "Attachment A," which is included by reference herein. Commissioner Apple seconded the Motion. Commissioner Albrecht concurred. Motion was approved.

2. **Noticed :**

- A. **FERC Dockets: EC15-206 and ER16-505**

Commissioner Apple moved to authorize staff to file a Petition for Intervention in FERC Dockets EC15-206 and ER16-505. Commissioner Emler seconded. Commissioner Albrecht concurred. Motion was approved.

- B. **Docket No. 16-MKEE-023-TAR, *In the Matter of the Joint Application of Mid-Kansas Electric Company, LLC, Prairie Land Electric Cooperative, Inc., Southern Pioneer Electric Company, The Victory Electric Cooperative Association, Inc., and Western Cooperative Electric Association, Inc., for Approval of Individual 34.5kV Formula Based Rates.***

Commissioner Emler moved for approval of order #16-0124 *Order Waiving Procedural Schedule*. Commissioner Apple seconded. Commissioner Albrecht concurred. Motion was approved.

- C. **Docket No. 15-MKEE-461-TAR, *In the Matter of the Joint Application of Mid-Kansas and Southern Pioneer Company Requesting Approval of a Settlement Agreement Regarding "First Mile" Local Delivery Service Over Southern Pioneer's 34.5 Facilities.***

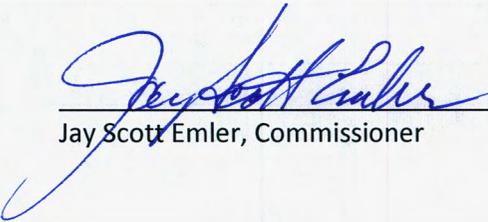
Commissioner Emler moved for approval of order #16-0071 - *Order Granting Joint Application for Approval of Settlement Agreement*. Commissioner Apple seconded. Commissioner Albrecht concurred. Motion was approved.

There being no further matters before the Commission, Commissioner Emler moved for adjournment of the Commission meeting, Commissioner Apple seconded the Motion. Commissioner Albrecht concurred. The Motion was approved, the Commission adjourned the January 12, 2016 Commission Meeting at 11:58 a.m.

Respectfully submitted,

  
\_\_\_\_\_  
Amy L. Green  
Secretary

  
\_\_\_\_\_  
Shari Feist Albrecht, Chair

  
\_\_\_\_\_  
Jay Scott Emler, Commissioner

  
\_\_\_\_\_  
Pat Apple, Commissioner



# ITEMS OF Consent Agenda

Approval Date: Tuesday, January 12, 2016

NOTICE TO THE PUBLIC: There will be no separate discussion of Consent Agenda items as they are considered to be routine by the Kansas Corporation Commission. Unless removed from the website's Consent Agenda, the orders appearing on the Consent Agenda will become the Order of the full Commission at the Commission's regularly scheduled Business Meeting. If Commission staff or a Commissioner requests an item be removed from the Consent Agenda, the affected item may be considered separately or placed on the earliest possible Business Meeting agenda for discussion.

## Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
1	In the matter of an Order to Show Cause issued to West X, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-159-CSHO	
2	In the matter of an Order to Show Cause issued to Mid Gulf, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-162-CSHO	
3	In the matter of an Order to Show Cause issued to D & I Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-163-CSHO	
4	In the matter of an Order to Show Cause issued to P & W Petroleum, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-164-CSHO	

## Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
5	In the matter of an Order to Show Cause issued to G & G Resources Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-165-CSHO	
6	In the matter of an Order to Show Cause issued to Chooch, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-166-CSHO	
7	In the matter of an Order to Show Cause issued to Commonwealth Petroleum Corporation ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-167-CSHO	
8	In the matter of an Order to Show Cause issued to Walden and Applegate, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-168-CSHO	
9	In the matter of an Order to Show Cause issued to Partners in Crude, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-169-CSHO	
10	In the matter of an Order to Show Cause issued to Talley Resources, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-170-CSHO	
11	In the matter of an Order to Show Cause issued to Central States Oil & Gas, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-171-CSHO	
12	In the matter of an Order to Show Cause issued to Strata Operating, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-172-CSHO	
13	In the matter of an Order to Show Cause issued to Cherokee Valley Production Company, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-173-CSHO	
14	In the matter of an Order to Show Cause issued to Leavell Resources Corporation ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-174-CSHO	

## Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
15	In the matter of an Order to Show Cause issued to Kenleco Oil and Gas Corporation ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-175-CSHO	
16	In the matter of an Order to Show Cause issued to Hardrock Resources, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-176-CSHO	
17	In the matter of an Order to Show Cause issued to Mohawk Petroleum, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-177-CSHO	
18	In the matter of an Order to Show Cause issued to Petrolantic, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-178-CSHO	
19	In the matter of an Order to Show Cause issued to Columbian Services Corporation ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-179-CSHO	
20	In the matter of an Order to Show Cause issued to Eastern Kansas Drilling, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-180-CSHO	
21	In the matter of an Order to Show Cause issued to Steve's Oilfield Service, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-181-CSHO	
22	In the matter of an Order to Show Cause issued to H - W Operating Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-182-CSHO	
23	In the matter of an Order to Show Cause issued to Kaycee Oil Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-183-CSHO	
24	In the matter of an Order to Show Cause issued to Miranda, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-184-CSHO	

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ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
25	In the matter of an Order to Show Cause issued to Mogg Enterprises, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-185-CSHO	
26	In the matter of an Order to Show Cause issued to Petro-Union, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-186-CSHO	
27	In the matter of an Order to Show Cause issued to Mor-Meg, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-187-CSHO	
28	In the matter of an Order to Show Cause issued to Bison Drilling, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-189-CSHO	
29	In the matter of an Order to Show Cause issued to Castle-Rock Production, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-190-CSHO	
30	In the matter of an Order to Show Cause issued to Marjo, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-191-CSHO	
31	In the matter of an Order to Show Cause issued to Atrium Oil & Gas Co. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-192-CSHO	
32	In the matter of an Order to Show Cause issued to Onyx Oil Corporation ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-193-CSHO	
33	In the matter of an Order to Show Cause issued to Pan Oil and Gas Company, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-194-CSHO	
34	In the matter of an Order to Show Cause issued to Michkan Management Group, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-195-CSHO	

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ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
35	In the matter of an Order to Show Cause issued to XENEX, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b>Default Order</b>	16-CONS-196-CSHO	
36	In the matter of an Order to Show Cause issued to Devonian Oil Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b>Default Order</b>	16-CONS-197-CSHO	
37	In the matter of an Order to Show Cause issued to Innes Petroleum, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b>Default Order</b>	16-CONS-198-CSHO	
38	In the matter of an Order to Show Cause issued to Col-Kan Development, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b>Default Order</b>	16-CONS-199-CSHO	
39	In the matter of an Order to Show Cause issued to Cross Bar Petroleum, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b>Default Order</b>	16-CONS-201-CSHO	
40	In the matter of an Order to Show Cause issued to Dennis Garber G. & Assoc. Inc. dba Sunflower ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b>Default Order</b>	16-CONS-202-CSHO	
41	In the matter of an Order to Show Cause issued to Global Natural Resources Corporation ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b>Default Order</b>	16-CONS-203-CSHO	
42	In the matter of an Order to Show Cause issued to Kelt Energy, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b>Default Order</b>	16-CONS-204-CSHO	
43	In the matter of an Order to Show Cause issued to Cattlemens, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b>Default Order</b>	16-CONS-205-CSHO	
44	In the matter of an Order to Show Cause issued to Nuoil Co., Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b>Default Order</b>	16-CONS-207-CSHO	

## Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
45	In the matter of an Order to Show Cause issued to Jay Boy Oil, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-208-CSHO	
46	In the matter of an Order to Show Cause issued to Wildfire Oil & Gas, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-209-CSHO	
47	In the matter of an Order to Show Cause issued to Galloway Petroleum Exploration, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-210-CSHO	
48	In the matter of an Order to Show Cause issued to Petro 85 Corporation ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-211-CSHO	
49	In the matter of an Order to Show Cause issued to North American Resources Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-212-CSHO	
50	In the matter of an Order to Show Cause issued to Metro Energy, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-213-CSHO	
51	In the matter of an Order to Show Cause issued to Simco Exploration Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-215-CSHO	
52	In the matter of an Order to Show Cause issued to New London Oil, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-216-CSHO	
53	In the matter of an Order to Show Cause issued to K. C. Crude, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-217-CSHO	
54	In the matter of an Order to Show Cause issued to Black Petroleum Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-218-CSHO	

**Consent Agenda**

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
55	In the matter of an Order to Show Cause issued to Four Sands Oil Company, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-219-CSHO	
56	In the matter of an Order to Show Cause issued to Russell, James E. Petroleum, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-220-CSHO	
57	In the matter of an Order to Show Cause issued to H-30, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-221-CSHO	
58	In the matter of an Order to Show Cause issued to Reese Oil Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-222-CSHO	
59	In the matter of an Order to Show Cause issued to Tonda Oil Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-225-CSHO	
60	In the matter of an Order to Show Cause issued to Plains Resources, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-226-CSHO	
61	In the matter of an Order to Show Cause issued to McGinness Oil Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-227-CSHO	
62	In the matter of an Order to Show Cause issued to Beacon Exploration Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-229-CSHO	
63	In the matter of an Order to Show Cause issued to ARCO Oil & Gas Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-230-CSHO	
64	In the matter of an Order to Show Cause issued to Martindale Enterprises, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-232-CSHO	

## Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
65	In the matter of an Order to Show Cause issued to Hawn Petroleum, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-233-CSHO	
66	In the matter of an Order to Show Cause issued to Finch's Drilling, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-234-CSHO	
67	In the matter of an Order to Show Cause issued to Pendleton Land and Exploration, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-235-CSHO	
68	In the matter of an Order to Show Cause issued to Culver & Grounds Oil Properties, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-237-CSHO	
69	In the matter of an Order to Show Cause issued to Dieter Production Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-238-CSHO	
70	In the matter of an Order to Show Cause issued to C & R Drilling Co. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-239-CSHO	
71	In the matter of an Order to Show Cause issued to Petroleum Development, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-240-CSHO	
72	In the matter of an Order to Show Cause issued to Chief Drilling, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-241-CSHO	
73	In the matter of an Order to Show Cause issued to Alco Drilling Co., Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-242-CSHO	
74	In the matter of an Order to Show Cause issued to Elkhound Resources Inc ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-243-CSHO	

**Consent Agenda**

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
75	In the matter of an Order to Show Cause issued to Patton Oil Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-244-CSHO	
76	In the matter of an Order to Show Cause issued to Sher-Lon Corporation ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-245-CSHO	
77	In the matter of an Order to Show Cause issued to BS & B Oil and Gas, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-246-CSHO	
78	In the matter of an Order to Show Cause issued to Triad Energies ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-247-CSHO	
79	In the matter of an Order to Show Cause issued to Production Team, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-248-CSHO	
80	In the matter of an Order to Show Cause issued to Oaks Petroleum, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-249-CSHO	
81	In the matter of an Order to Show Cause issued to Baker Oil, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-250-CSHO	
82	In the matter of an Order to Show Cause issued to Price, Robert R. Operating, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-251-CSHO	
83	In the matter of an Order to Show Cause issued to Steinberger Oil Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-252-CSHO	
84	In the matter of an Order to Show Cause issued to Zoandra Petroleum, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-253-CSHO	

## Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
85	In the matter of an Order to Show Cause issued to Partners Investment Properties Corp. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-254-CSHO	
86	In the matter of an Order to Show Cause issued to Lamoreaux Homes, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-255-CSHO	
87	In the matter of an Order to Show Cause issued to Kennedy & Mitchell, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-256-CSHO	
88	In the matter of an Order to Show Cause issued to Kansas Horizon Oil, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-257-CSHO	
89	In the matter of an Order to Show Cause issued to American Lariat, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-258-CSHO	
90	In the matter of an Order to Show Cause issued to Midwestern Oil Co., Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-259-CSHO	
91	In the matter of an Order to Show Cause issued to Taylor Bros. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-260-CSHO	
92	In the matter of an Order to Show Cause issued to Crude Oil and Gas Co., Inc ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-261-CSHO	
93	In the matter of an Order to Show Cause issued to Judy Company, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-262-CSHO	
94	In the matter of an Order to Show Cause issued to Oil Drillers and Developers, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-263-CSHO	

## Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
95	In the matter of an Order to Show Cause issued to Worldwide Exploration Consultants, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-264-CSHO	
96	In the matter of an Order to Show Cause issued to Oxford Exploration Company ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-266-CSHO	
97	In the matter of an Order to Show Cause issued to Jas Oil Co., Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-267-CSHO	
98	In the matter of an Order to Show Cause issued to Miller, I. O., Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-269-CSHO	
99	In the matter of an Order to Show Cause issued to B & B Oil Company, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-270-CSHO	
100	In the matter of an Order to Show Cause issued to Guthrie Oil Co., Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <i>Default Order</i>	16-CONS-271-CSHO	
101	In the Matter of the Application of Southwestern Bell Telephone, L.P. for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With MCImetro Access Transmission Services, LLC. <i>Order Approving Amended Interconnection Agreement</i>	06-SWBT-370-IAT	
102	In the Matter of the Application of Southwestern Bell Telephone, L. P. for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 with S&T Communications, LLC. <i>Order Approving Amended Interconnection Agreement</i>	06-SWBT-382-IAT	
103	In the Matter of the Application of Southwestern Bell Telephone, L.P. for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With Birch Telecom of Kansas, Inc. <i>Order Approving Amended Interconnection Agreement</i>	06-SWBT-747-IAT	
104	In the Matter of the Cancellation of All Operating Certificates of Convenience and Authority Previously Granted to New Century Telecom, Inc. <i>Order Cancelling Certificate</i>	16-NCTC-241-CCS	

## Consent Agenda

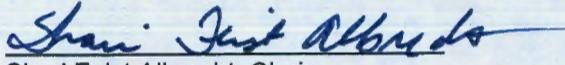
ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
105	In the Matter of the Audit of GreatCall, Inc. by the Kansas Universal Service Fund (KUSF) Administrator Pursuant to K.S.A. 2014 Supp. 66-2010(b) for KUSF Operating Year 18, Fiscal Year March 2014-February 2015. <b>Order Adopting Audit Report and Closing Docket</b>	16-GCIZ-038-KSF	
106	In the Matter of the Application of Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy Seeking Commission Approval for Ad Valorem Tax Surcharge Rider Tariff Adjustments for 2016. <b>Order Approving Ad Valorem Tax Surcharge Rider</b>	16-BHCG-294-TAR	
107	In the Matter of the Investigation of Freedom Electric & Trenching, LLC of Meriden, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Order Suspending Intrastate Motor Carrier Operations</b>	16-TRAM-126-PEN	
108	In the Matter of the Investigation of Brian F. Lovgren, d/b/a T R L Trucking of Kansas City, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Order Suspending Intrastate Motor Carrier Operations</b>	16-TRAM-153-PEN	
109	In the Matter of the Investigation of Schuster Battery Co., d/b/a Intyestate Batteries Northern Kansas of Topeka, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Penalty Order</b>	16-TRAM-314-PEN	
110	In the Matter of the Investigation of KC Golf Cart Company LLC of Lenexa, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Penalty Order</b>	16-TRAM-322-PEN	
111	In the Matter of the Investigation of Augusto Garces, d/b/a Garces Delivery Service of Bonner Springs, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <b>Penalty Order</b>	16-TRAM-329-PEN	
112	In the Matter of the Emergency Suspension of Operating Authority of Sanders Ranch, LLC of Louisburg, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <b>Emergency Suspension of Operating Authority Order</b>	16-TRAM-316-OOS	

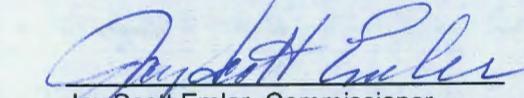
## Consent Agenda

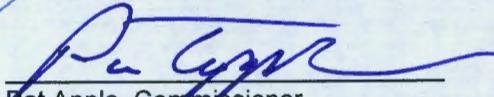
ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
113	In the Matter of the Emergency Suspension of Operating Authority of Michael Dennis, d/b/a GMD Trucking of Olathe, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <b><i>Emergency Suspension of Operating Authority Order</i></b>	16-TRAM-317-OOS	
114	In the Matter of the Emergency Suspension of Operating Authority of Clay Diediker of Parsons, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <b><i>Emergency Suspension of Operating Authority Order</i></b>	16-TRAM-318-OOS	
115	In the Matter of the Emergency Suspension of Operating Authority of Peer Enterprise, LLC of Wichita, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <b><i>Emergency Suspension of Operating Authority Order</i></b>	16-TRAM-319-OOS	
116	In the Matter of the Emergency Suspension of Operating Authority of David Isaacs, d/b/a Isaacs Racing of Bonner Springs, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <b><i>Emergency Suspension of Operating Authority Order</i></b>	16-TRAM-320-OOS	
117	In the matter of an Order to Show Cause issued to J.C.B. Resources, Inc. ("Operator") regarding responsibility under K.S.A. 55-179 for unplugged wells on an expired license. <b><i>Order Designating Prehearing Officer and Setting Prehearing Conference</i></b>	16-CONS-188-CSHO	
118	In the matter of a Compliance Agreement between Clinton Production, Inc. and Commission Staff regarding bringing the Burnett Breidenstein Unit #2 in Reno County into compliance with K.A.R. 82-3-111. <b><i>Order Approving Compliance Agreement</i></b>	16-CONS-668-CMSC	
119	In the matter of an Agreement between Joe Works Development, Inc., and Commission Staff regarding the plugging of several wells in Woodson and Allen Counties, Kansas. <b><i>Agreement - Joe Works Development, Inc.</i></b>	16-CONS-673-CMSC	
120	In the matter of the failure of Resource Operations, Inc. ("Operator") to comply with K.A.R. 82-3-111 at the Volkland #9 in Rice County, Kansas. <b><i>Penalty Order - Resource Operations, Inc.</i></b>	16-CONS-671-CPEN	
121	In the matter of the application of Bear Petroleum, LLC, for a permit to authorize the disposal of saltwater into the Glorietta Formation at the Morgan 2 OWWO SWD well, located in Section 5, Township 32 South, Range 33 West, Seward County, Kansas. <b><i>Order Allowing Protest and Continuing Hearing</i></b>	16-CONS-583-CUIC	

The above-captioned matter(s) were approved by the Commission, unless noted as removed.

For the Commission :

  
Shari Feist Albrecht, Chair

  
Jay Scott Emler, Commissioner

  
Pat Apple, Commissioner

Attest:

  
Amy L. Green  
Secretary to the Commission



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

**DEREK SCHMIDT**  
ATTORNEY GENERAL

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**Presentation by the Office of Attorney General on the Legal Status of the Clean Power Plan to the Kansas Corporation Commission  
by Chief Deputy Attorney General Jeff Chanay and  
Assistant Solicitor General Bryan Clark  
January 12, 2016**

Chairperson Albrecht and Commissioners Emler and Apple, thank you for this opportunity to discuss the current legal status of the Clean Power Plan, which the Environmental Protection Agency (“EPA”) announced on August 3, 2015. On October 23, 2015, the Rule implementing the Plan was published in the Federal Register and became ripe for legal challenge. The State of Kansas immediately challenged the Rule as part of a coalition of 24 States and state agencies.<sup>1</sup> A total of 27 states and numerous other public and private entities have challenged the Rule.<sup>2</sup>

The genesis of the Clean Power Plan proposal was a 2011 settlement agreement entered into between EPA, ten States, and several environmental organizations. Under the agreement, EPA committed to proposing standards of performance under Section 111 of the Clean Air Act (“CAA”) for new, modified, and existing power plants that included emission standards for carbon dioxide. The settlement also included an agreement that EPA “will” issue a “proposed rule under Section 111(d) that includes emissions guidelines for [carbon dioxide],” and “will”—after adopting Section 111(b) standards for new power plants—“transmit . . . a final rule that takes action with respect to” existing power plants.

This agreement is an example of EPA’s “sue and settle” practice wherein the Administration seeks to do by litigation settlement what it cannot do by existing law. The Office of Attorney General has consistently opposed this approach to rulemaking as it systematically excludes Kansas lawmakers, consumers, and citizens from having a meaningful voice in the process.

After the proposed Section 111(d) Rule was announced in June 2014, Kansas chose to be proactive in response to EPA’s proposal. On August 1, 2014, Kansas and eleven other

<sup>1</sup> West Virginia, Texas, Alabama, Arizona Corporation Commission, Arkansas, Colorado, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Louisiana Department of Environmental Quality, Attorney General Bill Schuette of Michigan, Missouri, Montana, Nebraska, New Jersey, North Carolina Department of Environmental Quality, Ohio, South Carolina, South Dakota, Utah, Wisconsin, and Wyoming.

<sup>2</sup> Mississippi Department of Environmental Quality, North Dakota, and Oklahoma filed separate petitions for review.

States<sup>3</sup> filed a Petition for Review in the United States Court of Appeals for the D.C. Circuit, challenging the final settlement that led to the creation of the Section 111(d) proposal. The case was captioned *West Virginia, et al. v. United States Environmental Protection Agency*, Case No. 14-1146. The petitioning States asked the Court to hold the settlement agreement unlawful to the extent the settlement committed EPA to finalize a coal-fired power plant rule under Section 111(d), to enjoin EPA from complying with the settlement agreement by finalizing a coal-fired power plant rule under Section 111(d), and to vacate the settlement agreement in relevant part. The parties to the settlement agreement intervened in the litigation on the side of EPA.<sup>4</sup>

The same twelve petitioning States also intervened in a private preemptive challenge to the Section 111(d) rule, *In re Murray Energy Corporation*, in the United States Court of Appeals for the D.C. Circuit, Case Nos. 14-1112 and 14-1151. The *West Virginia* and *Murray Energy* cases were consolidated for briefing and oral argument. On June 9, 2015, the D.C. Circuit ruled against the petitioners on the ground that the Rule, which still in its preliminary form, could not be challenged until it became final.

Immediately after the Clean Power Plan Rule was announced in August 2015, eleven of the twelve original States plus four more States<sup>5</sup> filed an Emergency Petition for Extraordinary Writ in the D.C. Circuit asking that the Rule be stayed because the announced final Rule sets dates for the submission of State Plans that are not tied to the date of publication. The case was captioned *In re West Virginia, et al.*, Case No. 15-1277. On September 9, 2015, a panel of the D.C. Circuit, without comment, denied the Petition on the grounds that “petitioners have not satisfied the stringent standards that apply to petitions for extraordinary writs that seek to stay agency action.”

I will now turn to the legal problems with the Rule that are of such concern to Kansas and many of our sister States. Based upon an obscure and rarely used provision of the CAA, Section 111(d) (42 U.S.C. § 7411(d)), the final Rule issued by the EPA on August 3, 2015, is designed to “transfor[m] . . . the domestic energy industry.” The Section 111(d) Rule manifests EPA’s policy judgment—never enacted or authorized by Congress—that coal-fired power generation should be systematically disfavored in this country. Even though the Rule was not published until October 23, 2015, and did not become effective until December 22, 2015, the clock has been ticking on States since August 2015 to design, draft, and submit an initial State Plan by September 6, 2016. That Plan must demonstrate how the State will replace coal-fired generation with entirely different sources such as natural gas, wind power, and solar power.

The Section 111(d) Rule requires the States to fundamentally reorganize their energy grids in order to reduce reliance on coal-fired power plants. EPA has mandated that the States design State Plans to achieve carbon dioxide emissions targets that EPA calculated

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<sup>3</sup> Alabama, Indiana, Kentucky, Louisiana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, West Virginia, and Wyoming.

<sup>4</sup> Maine, New York, Connecticut, Vermont, Washington, Rhode Island, California, New Mexico, Delaware, Oregon, the City of New York, The District of Columbia, Sierra Club, Natural Resources Defense Council, and Environmental Defense Fund.

<sup>5</sup> Arkansas, Florida, Michigan, and Wisconsin. South Carolina did not participate.

based on three “building blocks”: (1) altering coal-fired power plants to increase their efficiency; (2) shifting reliance on coal-fired power to natural gas; and (3) shifting reliance on coal-fired power to low or zero-carbon energy generation like wind and solar. Only the first building block involves regulating the way existing power plants operate or perform. The remaining two blocks represent across-the-board energy policy changes, aimed explicitly at reducing reliance on coal-fired energy. EPA’s legal justification for this approach is its assertion that Section 111(d) authorizes the agency to base a rule on any measure that “shifts generation from dirtier to cleaner sources.” Put another way, EPA believes that if the agency has legal authority to *regulate* a source category under Section 111(d), it may force States to design plans that will *retire* the sources in that category and shift the State’s energy portfolio toward different, “cleaner” sources.

It is the view of the Office of Attorney General that the Clean Power Plan unlawfully exceeds EPA’s authority and contains multiple legal defects, each of which provides an independent basis to invalidate the rule in its entirety.

Section 111(d) is a narrow, rarely used program, invoked by EPA only five times in 35 years, and only once in the last 25 years. In those few instances, EPA aimed its regulations at pollutants from specialized industries, like acid mist emitted from sulfuric acid plants, and in each instance EPA provided guidelines to States to impose traditional pollution control devices at those existing sources. The primary reason Section 111(d) has been so rarely used is what is known as the “Section 112 exclusion.” After the 1990 Amendments to the CAA, this exclusion prohibits EPA from invoking Section 111(d) for “any air pollutant . . . emitted from a source category which is regulated under [Section 112 of the CAA].” 42 U.S.C. § 7411(d)(1). Of course, the coal-fired sources EPA seeks to retire are already regulated under Section 112.

In *Utility Air Regulatory Group v. EPA*, 134 S. Ct. 2427, 2445-46 (2014) (“*UARG*”), the Supreme Court held that Congress must “speak clearly if it wishes to assign to an agency decisions of vast ‘economic and political significance.’” 134 S. Ct. at 2444 (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 160 (2000)); *accord King v. Burwell*, 135 S. Ct. 2480 (2015). The Court barred EPA from regulating under the Prevention of Significant Deterioration and Title V programs “the construction and modification of tens of thousands, and the operation of millions, of small [carbon dioxide] sources nationwide.” *UARG*, 134 S. Ct. at 2444. Such regulation, the Court explained, would “bring about an enormous and transformative expansion in EPA’s regulatory authority without clear congressional authorization.” 134 S. Ct. at 2444. “[W]hen an agency claims to discover in a long-extant statute an unheralded power to regulate ‘a significant portion of the American economy,’” the Court stressed, “[courts should] greet its announcement with a measure of skepticism.” *Id.* (quoting *Brown*, 529 U.S. at 159).

We believe that this lack of specific authority is fatal to the Section 111(d) Rule. Invoking authority under a statutory provision that it has utilized on only five previous occasions, EPA has purported to grant itself the power to “drive a more aggressive transformation in the domestic energy industry” in order to replace America’s most

common energy source—coal—with natural gas and renewable sources. This is a broad-based energy policy typically left to Congress to enact, not environmental regulation. EPA claims to have “discover[ed] in a long-extant statute an unheralded power to regulate a significant portion of the American economy.” *UARG*, 134 S. Ct. at 2444 (internal quotation marks omitted). But there is no evidence that Congress “clearly” assigned to EPA the authority to make these energy policy decisions of “vast economic and political significance.” *Id.*

We also believe that EPA’s claim that Section 111(d) permits the agency to reorganize the nation’s energy economy through the States must also be rejected because it violates the States’ Tenth Amendment rights. States’ authority over the intrastate generation and consumption of electricity is “one of the most important functions traditionally associated with the police powers of the States.” *Ark. Elec. Coop. Corp. v. Ark. Pub. Serv. Comm’n*, 461 U.S. 375, 377 (1983). Congress recognized this State authority in the Federal Power Act (“FPA”), which confines the federal authority over electricity markets to “the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce.” Regulation of the *intrastate* consumer market remains where it constitutionally belongs: in the hands of the States. 16 U.S.C. § 824(a). The FPA and other federal energy statutes respect the States’ “traditional responsibility in the field of regulating electrical utilities for determining questions of need, reliability, cost and other related state concerns.” *Pac. Gas & Elec. Co. v. State Energy Res. Conservation & Dev. Comm’n*, 461 U.S. 190, 205 (1983).

As mentioned at the outset, Kansas has joined a 24-State coalition challenging EPA’s Section 111(d) rule. On October 23, 2015, Kansas filed a Petition for Review of the final Rule in the D.C. Circuit. The case is captioned *West Virginia, et al. v. U.S. Environmental Protection Agency, et al.*, No. 15-1363. As we expected, numerous private power companies, labor unions, trade associations, and others also filed petitions for review in the D.C. Circuit. In all, 71 petitioners have filed 16 petitions for review, which have been consolidated with ours for briefing and oral argument. In addition, numerous others have moved to intervene and others have sought permission to participate as *amici curiae*.

Given the present and ongoing harm to Kansas of having to comply with the Rule, Kansas also filed a Motion for Stay and for Expedited Consideration of Petition for Review. Our motion asked the court to put the Rule on hold while the case is litigated and to impose briefing deadlines that will allow the case to be argued in May 2015, before the court takes its summer recess. By filing this motion we hope to avoid what happened in *Michigan v. EPA*, 135 S. Ct. 2699 (2015), in which EPA lost a challenge to its final rule setting standards for regulating hazardous air pollutants, but following the loss boasted that the regulated parties are “already in compliance or well on their way to compliance” because the rule remained in effect throughout the litigation. Our motion has been fully briefed and we expect a decision from the D.C. Circuit by the end of the month.

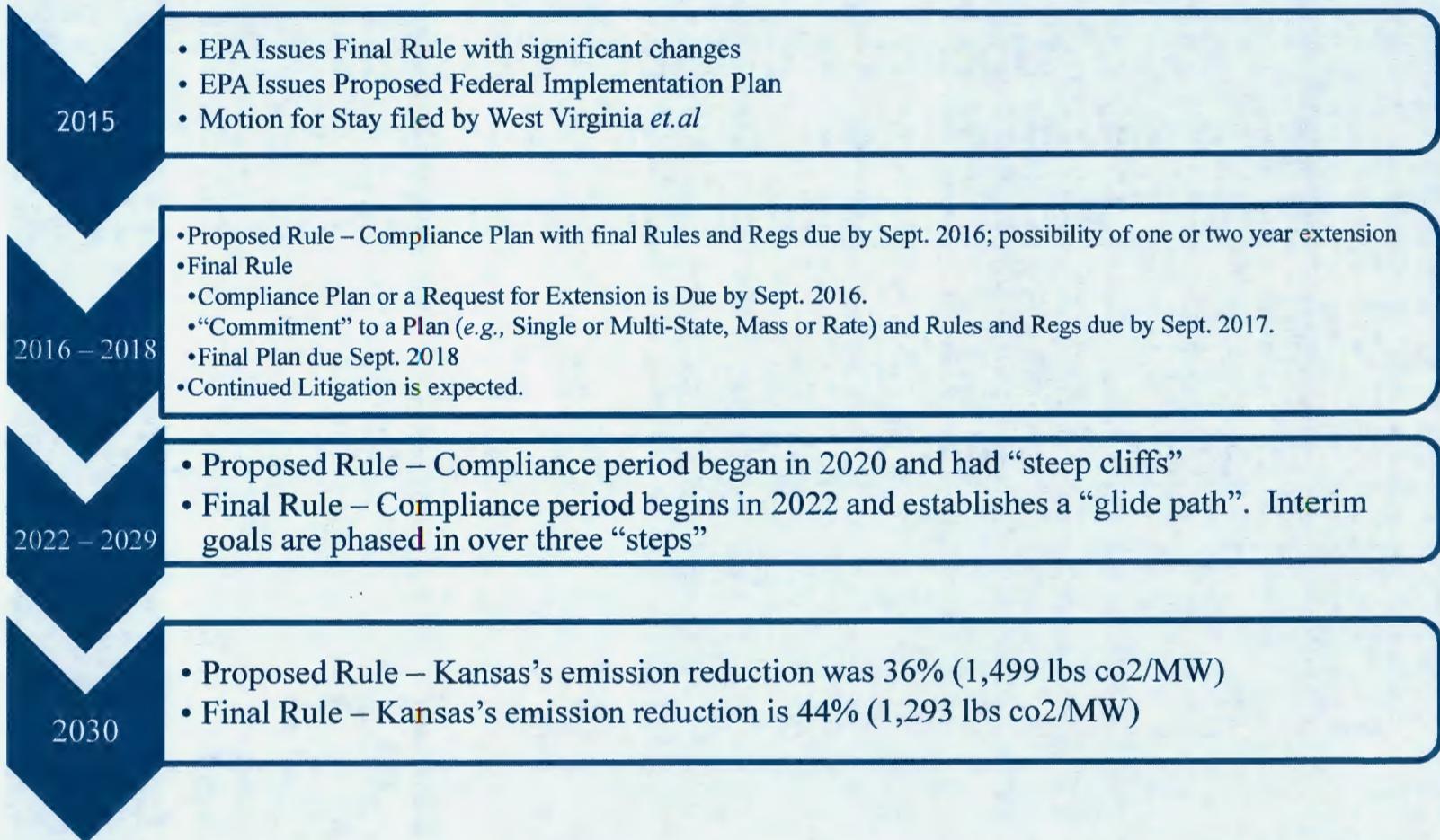
Regardless of how the D.C. Circuit rules in this case, it seems a near-certainty that this dispute will not be ultimately resolved until it is heard by the United States Supreme Court, most likely in 2017.

Special Education Session  
General Investigation of the EPA's Final Rule  
on Carbon Pollution Emission Guidelines  
Docket No. 16-GIME-242-GIE  
January 12, 2015  
Jeff McClanahan, Director Utilities Division



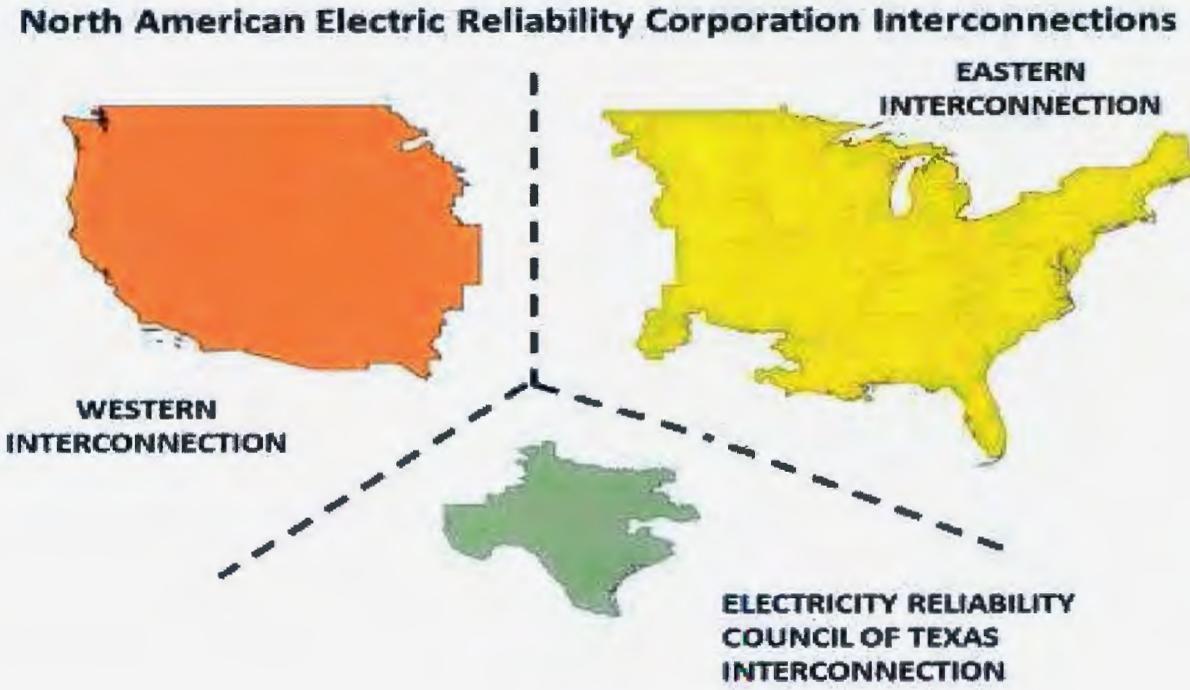
## Overview of the Clean Power Plan

### Key Changes in Compliance and Interim Goal Dates



Overview of the Clean Power Plan

**In its Final Rule, EPA establishes Building Blocks 1 and 3 (BB1) and (BB3) goals based on the NERC regions**



## Overview of the Clean Power Plan

### Key Changes from the Proposed Rule

#### Changes to the Building Blocks

- **BB1 Heat Rate Improvements:** Was 6% under Proposed Rule. Final Rule calculates heat rate improvement percentages by analysis of each NERC region:
  - Eastern Interconnection: 4.3% (Kansas)
  - Western Interconnection: 2.1%
  - ERCOT: 2.3%
- **BB2 Re-dispatch of Coal to NGCC:** Bases utilization of NGCC plants on 75% of their net summer capacity, as opposed to nameplate capacity.
- **BB3 Renewable Energy :** Proposed Rule used regional RPS goals as basis for RE expansion. Final Rule bases BB3 on historical RE capacity growth identified through modeling projections of each NERC region.
- **Energy Efficiency:** Formerly BB4, EE was removed from the BSER but is still an eligible compliance strategy.

## Overview of the Clean Power Plan

### **Key Changes from the Proposed Rule**

- **“At Risk” Nuclear Removed from the Final Rule**
  - Under-Construction Nuclear may contribute to state goals. Under the proposed rule, Under-Construction Nuclear counted as an existing EGU and could not contribute towards state goal.
  - Uprates at existing plants may also contribute to goals. (Uprate: An increase in available electric generating unit power capacity due to a system or equipment modification. An uprate is typically a permanent increase in the capacity of a unit.).
  
- **Reliability “Safety Valve” for individual EGUs**
  - Reliability-critical affected EGU or EGUs may be granted a 90-day window in which they are not required to meet the state emissions standards, and this will not affect final performance toward state goals.
  - Will not affect final performance toward state goals.
  - For use in situations in which an immediate, unforeseen, emergency situation threatens reliability.
  - EPA did not adequately address long-term reliability concerns.

## Overview of the Clean Power Plan

### **Final Rule Compliance Requirements**

- **Rate-Based Emission Goals:**
  - Statewide emission performance goals represented as an adjusted output-weighted-average, lbs. CO<sub>2</sub>/Net MWh from all affected EGUs.
- **Mass-Based Emission Goals:**
  - Statewide emission performance goals represented as an adjusted output-weighted-average, total tons CO<sub>2</sub> from all affected EGUs.
- Final Rule provides equivalent rate-based and mass-based goals for each state.

## Final Rule Compliance Requirements

- **States may submit plans according to two types of plan approaches:**
  - **Emissions Standards Approach**: Federally enforceable emissions standards imposed directly on affected EGUs .
    - Available for both rate and mass approaches.
  - **“State Measures Approach”**: Comprised of various measures implemented by the state that are not federally enforceable but result in the affected EGUs meeting the requirements of the rule’s emissions guidelines.
    - A state measures plan *must also* include a backstop of federally enforceable standards on affected EGUs that fully meet emissions guidelines – this would be triggered only if the state measures fail to result in the affected EGUs achieving required reductions on schedule.
    - Available only for mass plan approaches.

## Overview of the Clean Power Plan

### Final Rule Compliance Requirements

#### Trajectories and Interim Goals

- EPA has established three interim goal periods: 2022-24, 2025-27, 2028-29, as well as an interim goal for the 2022-2030 compliance period.
- States may use an emissions reduction trajectory that differs from the trajectory defined by the three interim goal periods if the overall interim goal is met on average over the compliance period, and the final goal is achieved in 2029.

#### Progress Tracking and Reporting

- **Plan Requirements:** “State plans must contain requirements for tracking and reporting actual plan performance during implementation, which includes reporting of CO<sub>2</sub> emissions from affected EGUs.”
- **State Progress Reporting:** States must submit a report to the EPA containing the emissions performance comparison for each reporting period no later than July 1 following the end of each interim goal period.

## Final Rule Compliance Requirements

- **Leakage:** Under a mass-based plan, EPA identified a potentially perverse incentive whereby new CO<sub>2</sub> emitting sources, *not regulated by the CPP*, may have an incentive to increase generation as a substitute action for reducing emissions at affected EGUs
  - *As a result, state mass-based plans must include requirements that align incentives to prevent leakage.*
- **“Trading Ready” and “Ready-for-Interstate Trading”:** States may design plans that contain features necessary and suitable for their affected EGUs to engage in trading with other states without developing a multi-state plan or formal arrangement (*e.g., trading with EPA tracking systems*).

## Overview of the Clean Power Plan

### **Final Rule Compliance Requirements**

- **The Clean Energy Incentive Program (CEIP):**
  - The CEIP was not in the proposed rule.
  - Under the CEIP, states may generate early action Emission Reduction Credits (ERCs) (Rate-based plans) or Emission Allowances (Mass-based plans).
  - EPA will match early action ERCs or Emission Allowances up to 300MM short tons of CO<sub>2</sub>.
  - ERCs or Allowances may be used for compliance by an affected EGU.

## Key Issues

- **Stranded Assets:**
  - The potential for stranded assets was addressed extensively in comments on the proposed rule.
  - The Final Rule does not adequately address stranded assets.
  - EPA asserts stranded assets will be addressed by the additional compliance time and the use of trading programs.
  
- **Remaining Useful Life:**
  - The remaining useful life issue was also addressed extensively in comments on the proposed rule.
  - In the Final Rule, EPA does not allow states to adjust its goal to accommodate the remaining useful life of an EGU.
  - EPA's rationale is based the additional compliance time and the use of trading programs will allow plants with remaining debt or useful life to continue to operate.

## Overview of the Clean Power Plan

### **Next Steps**

- Select consultant.
- Consultant to work with individual utilities to review each utility's preferred/feasible compliance options.
- After Consultant completes review with utilities, stakeholders discuss and decide which compliance options to model on a state-wide basis.
- Stakeholders present selected options to Commission for its review.

## Overview of the Clean Power Plan

### **Next Steps**

- Additional educational sessions or presentations?
- Timeline due February 1, 2016.

# Clean Power Plan Overview for KCC

January 12, 2016

Thomas Gross  
Bureau of Air  
Kansas Department Health and Environment



# THE CLEAN POWER PLAN

- Three actions by EPA on August 3, 2015
  - Final emission guideline rules for existing electrical generating units (EGU) -- (111d)
  - Final CO2 performance standards for new, modified and reconstructed EGUs
  - Proposed Federal Plan and model rule for existing EGUs
- Goals for existing units based on state's mix of power generation in 2012
- Kansas goal dropped significantly from proposal
- State goals in either mass or rate form
  - Mass - Caps total annual tons of carbon EGUs can emit
  - Rate - Caps carbon per unit of power produced

# CPP STRUCTURE

- EPA develops a statewide goal for each state to meet
- State develops a plan for submittal to EPA
  - List of affected units
  - Method of complying with the CO<sub>2</sub> goal set for the State
  - Means of ensuring that utilities comply with the goal
- Plans are subject to EPA approval
- Federal Plan (FIP) imposed only if state fails to submit plan or plan does not meet federal requirements
- EPA proposed model trading rules to streamline process for states that choose to trade

# KANSAS AFFECTED UNITS

- Coffeyville Mun. Power Plant Unit 4
- ***Empire District - Riverton Unit 12***
- Kansas City BPU - Nearman Unit 1
- Kansas City BPU - Quindaro Units 1 and 2
- KCP&L - La Cygne Units 1 and 2
- Mid-Kansas Electric - Cimarron River Unit 1
- Mid-Kansas Electric - Fort Dodge Unit 4
- Mid-Kansas Electric - Great Bend Unit 3
- Sunflower Electric - Garden City Unit S2
- Sunflower Electric - Holcomb Unit 1
- Westar Energy - Gordon Evans Units 1 and 2
- Westar Energy - Hutchinson Unit 4
- Westar Energy - Jeffrey Unit 1, 2 and 3
- Westar Energy - Lawrence Units 3, 4 and 5
- Westar Energy - Murray Gill Units 1, 2, 3 and 4
- Westar Energy - Tecumseh Units 7/9 and 8/10
- Winfield Mun. Power Plant #2, Unit 4

Does not include 3 closed units and 3 cold-standby units

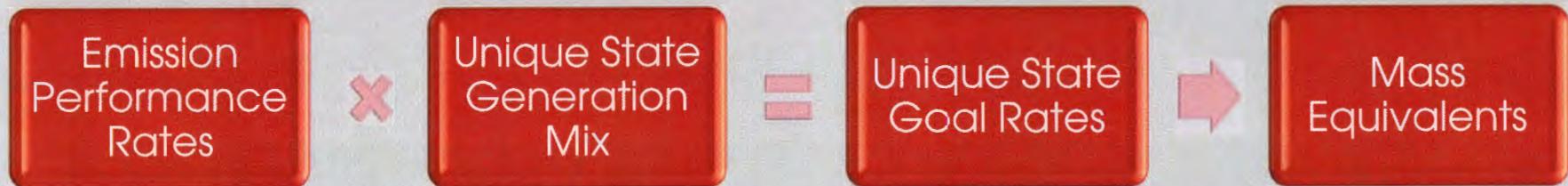
# KEY CLEAN POWER PLAN DATES

Date	Action
August 3, 2015	Final Clean Power Plan rule issued
September 6, 2016	States submit final plan or initial submittal with extension request
September 6, 2017	Progress update to EPA for states with extensions
September 6, 2018	State final plans due to EPA
January 1, 2022	First of three interim compliance periods begins
January 1, 2030	Final compliance date

# BEST SYSTEM OF EMISSIONS REDUCTION

Building Block	Strategy Used to Calculate Goal
1. Improved efficiency at power plants	Increase efficiency of existing coal-fired steam EGUs.....based on interconnect potential
2. Shift from steam EGUs to NGCC turbines	Substituting increased generation from existing gas units for reduced generation at existing steam EGUs .....based on 75% summer capacity
3. Shifting generation to renewables	Substituting increased generation from new zero-emitting generation for reduced generation at existing fossil fuel EGUs.....based on state renewable potential

# EGU PERFORMANCE RATES

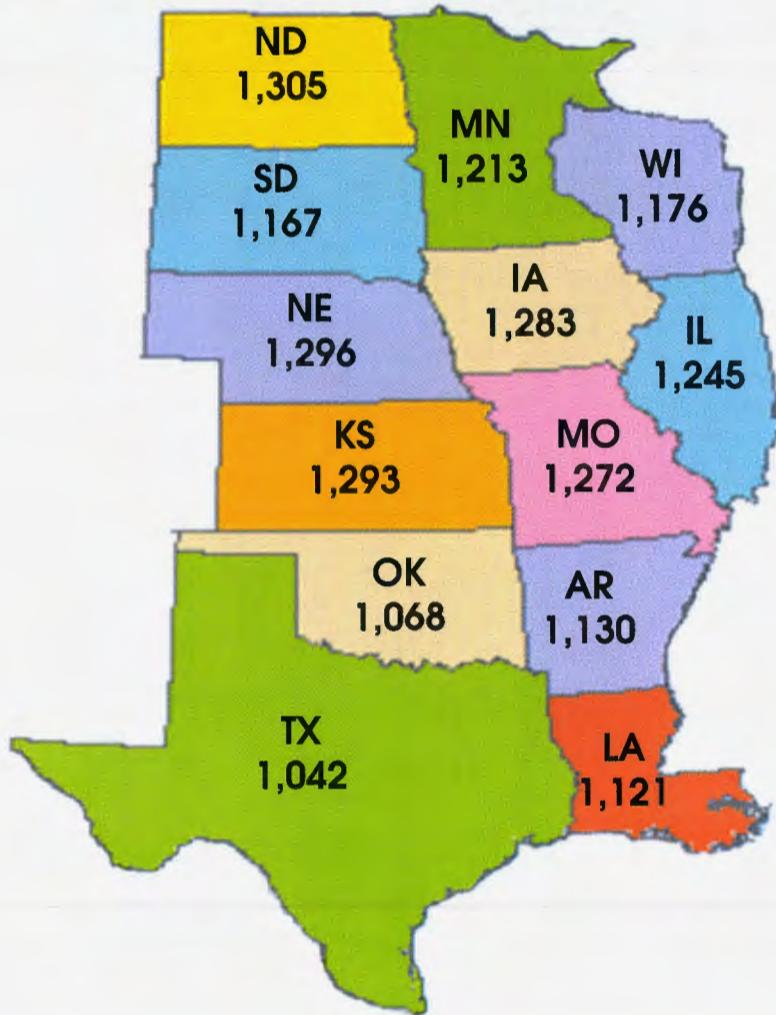


- Rates established for two categories of existing EGUs
  - Fossil fuel-fired EGUs – **1,305 lbs/MWh**
  - Natural gas combined cycle units – **771 lbs/MWh**
- Rule sets state goals in three forms:
  - Rate-based in lbs/MWh
  - Mass-based in tons of CO<sub>2</sub>
  - Mass-based with new source complement in tons of CO<sub>2</sub>

# KANSAS INTERIM AND FINAL GOALS

	CO <sub>2</sub> Rate (lbs/net MWh)	CO <sub>2</sub> Emissions (short tons)	
2012 Historic	2,319	34,353,105	
	Rate-Based (lbs/net MWh)	Mass-Based (annual avg. CO <sub>2</sub> emissions in short tons)	Mass-Based existing + new source complement
CPP interim period (2022–2029)	1,519	24,859,333	25,120,015
Interim period 2022–2024	1,654	26,763,719	26,870,692
Interim period 2025–2027	1,485	24,295,773	24,656,647
Interim period 2028–2029	1,366	22,848,095	23,189,053
Final goal (2030 and beyond)	<b>1,293</b>	21,990,826	22,220,822

# NEARBY STATES' FINAL GOALS



**Final Rule Range: (1,042 – 1,305)**

Note: All goals are listed in units of lbs CO<sub>2</sub>/MWh

# COMPLIANCE PATHS

## Rate-based Compliance (lbs/MWh)

Subcategorized CO<sub>2</sub> emission performance rates

State CO<sub>2</sub> emission goal rate for existing units

Varied CO<sub>2</sub> emission rates

## Mass-based Compliance (tons CO<sub>2</sub>)

CO<sub>2</sub> Mass goal for existing units

CO<sub>2</sub> Mass goal for existing units w/ new unit complement

**State measures:** CO<sub>2</sub> Mass Goal for existing and new units

# REQUIREMENTS FOR INITIAL PLAN SUBMITTAL

- Identification of plan approach under consideration
- Description of progress to date on plan components
- Explanation of why additional time is needed
- Demonstration of engagement with stakeholders and public comment process
  - Must include vulnerable communities
- Plans for stakeholder engagement during development of the final plan
- Initial plan submittal with extension request deemed approved if no negative EPA comments in 90 days

# HOW DOES THE RULE ADDRESS RELIABILITY?

- **State Reliability Demonstration**
  - States required to demonstrate reliability issues considered in developing plan
- **Plan Revisions due to Reliability Issues**
  - States may propose plan revisions to deal with reliability threats
  - Emission performance must be maintained
  - Revision must include analysis from ISO/RTO regarding risk
- **Reliability Safety Valve**
  - To address unanticipated events that would prevent utility from meeting regulation
  - Provides 90-day period during which an EGU is not required to meet its emission standard

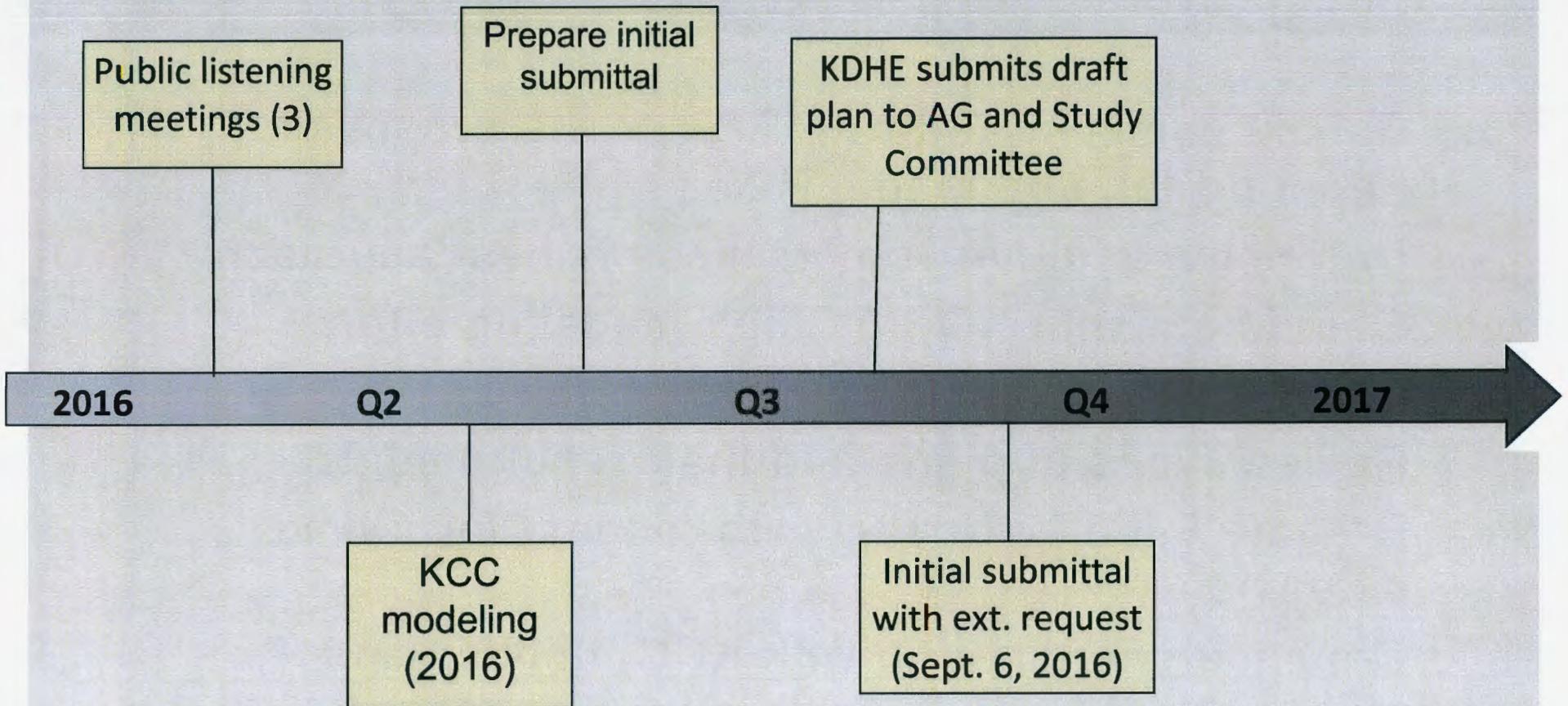
# FEDERAL PLAN AND MODEL RULE

- Model Rule has proposals for both mass and rate goals
  - “Trading ready” options for states and utilities
  - EPA will support trading with EPA tracking systems
  - Clean Energy Incentive Program
- Federal Plan occurs if state does not submit approvable plan
  - Would apply to all affected EGUs
  - Proposed Federal Plan is trading-ready
  - Affected states can implement parts of the Plan
  - States can exit federal plan upon approval of a state plan
  - No reliability safety valve

# KDHE EFFORTS TO DATE

- MOU with KCC
- Review of voluminous EPA materials
- Petition for reconsideration and request for stay (Dec. 17, 2015)
- Surveying nearby states' efforts and plans
- Webpage and e-mail established
- Stakeholder meetings
- Preliminary evaluation of compliance options

# SHORT-TERM TIMELINE



# ON THE HORIZON

- Submit comment letter to EPA on the proposed Federal Plan and Model Rules
- Determine whether rate or mass is best approach
- Coordinate with KCC on their modeling effort
- Public listening sessions (Feb-March 2016)
- Review types of plans and their requirements
- Prepare initial submittal with request for a time extension
- Continue coordination with KCC, utilities and stakeholders

# FINAL THOUGHTS

- Much uncertainty still remains
  - Potential lawsuits...possible stay
  - Final version of the proposed rule will have significant impact on state plans
  - EPA's interpretations of the preamble and the final rule
- How to deal with stranded electrical generating assets
- Addressing cost and grid reliability
- Distribution of allowances and set-asides if a mass plan is chosen

# Questions?

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**Our vision is 'healthy Kansans living in safe and sustainable environments'.  
The state belongs to all of us - "Kansas Don't Spoil It"**