

Kansas Corporation Commission

Activities & Facts – Cross State Air Pollution Rule (CSAPR)

1. **Deadlines** – goes into effect January 1 2012; compliance filings must be made in March 2013; stayed by Court, hearings TBD (probably April)
 - i. Sets aggregate state limits (allowances) on tons of emissions of: (1) annual NOx; (2) annual SOx; and, (3) seasonal NOx (ozone). EPA model allocates those allowances to individual utilities and generating units; KS has asked for control over the allocation process; Kansas and four other states (KS, TX, OK, NE) included in CSAPR for the first time in July 2011

Emission	Estimated CSAPR Deficit Top 5 states	Current Market Price
Annual NOx Can purchase allowances nationally	US = 113,319 KS = 15,555 IL = 29,904 PA = 19,699 TX = 18,054 IN = 15,125	\$450/ton
Annual SOx Limited geographic market (Group 2 states)	US = 159,770 KS = 969 TX = 148,153 GA = 44,328 NE = 5,740	\$850/ton
Seasonal NOx Believe that EPA will issue rule that exempts KS from this	US = 77,976 KS = 6,449 OK = 16,891 PA = 11,779 TX = 8,753 IN = 8,174	\$800/ton

- ii. Penalties for non-compliance ≈ \$13M/ton + criminal sanctions for willful violations + loss of allowances; EPA indicated penalties are not automatic, but involve some agency discretion
- iii. To comply, utilities/states must
 - a. Reduce actual emissions through operations
 - Improve efficiency or performance of existing pollution control or install new pollution controls
 - Burn lower sulfur coal (done for Westar; unknown for Sunflower or BPU)
 - Load shift to cleaner sources (wind, nuclear, natural gas) (Wolf Creek (1,400 MW) down time forecast is ≈ 43 days, in 2011 it was 97 days) or non-CSAPR sources (muni diesel generators).
 - Shed load during year to avoid running out of allowances at year end (rolling blackouts)
 - b. Buy allowances on the open market
 - EPA predicts market will function smoothly; utilities believe market will be overwhelmed by other states and there may be no allowances available for sale
 - c. Secure an extension of time to install pollution control equipment (depends on Court and/or EPA)
 - d. Secure more allowances (depends on EPA discretion, technical corrections)

2. **Court case under way** – KS has appealed EPA order; utilities are also parties; stay issued in Dec 2011

3. FERC opened proceeding to investigate impacts of EPA CSAPR on system reliability

4. DOE has said they will exercise authority to require plants to operate in contravention to EPA CSAPR rule if necessary to protect system reliability

- i. DOE emergency authority may not insulate non-compliant utilities from EPA fines or private lawsuits

5. Potential Outcomes – Do nothing option

- i. Everything will work out OK (EPA view)
 - NERC's national capacity analysis is correct; SPP's & utilities' analyses are wrong; no need for any extraordinary planning; claims made by utilities are just litigation tactics; utilities can make up deficits by improving efficiencies and buying allowances on the open market
- ii. It will not be OK (utilities' & SPPs' view)
 - System will suffer reliability issues – modeled system impacts using EPA's assumptions; rolling blackouts are a real possibility

6. Options

- i. Legal/Administrative Options (Court and/or EPA)
- ii. Buy allowances and/or buy generation from sources unaffected by CSAPR
 - a. Market for allowances may be non-existent or overwhelmed by demand from other states
 - b. Unknowns demand ("need") by individual utilities (depends on weather)
- iii. Solving one utility's need for allowances does not meet KS state need (Westar, BPU, Sunflower)
- iv. Pursue all feasible changes in system operations efficiencies "doable" w/in a few months
- v. Shed load if other options are not feasible
 - Planned system outages (rolling blackouts) during transition period
 - a. Curtailment plans needed for ALL utilities including wholesale buyers (munis, coops)
 - b. Unforeseen consequences (GM plant in KC; poultry farms; food safety; wireless phones)
 - Draconian actions to effectuate immediate demand curtailment

7. KCC Activities

- i. Meetings with ALL affected/interested parties to understand operational impacts and ensure that plans are being developed to prevent worst case scenarios
 - Affected utilities (Westar, KEPCo, KPP, Sunflower, BPU, Midwest Energy)
 - Regional EPA administrator (Karl Brooks)
 - Attorney General
 - KDHE
 - Adjutant General (ensure that emergency curtailment plans are made for rolling blackouts)
 - SPP (ensure that modeling efforts are sound)
 - Department of Energy (understand emergency waiver process)
 - Other state PUCs; NARUC
- ii. Generic docket to solicit ideas from industry and affected entities and actions to prevent harm to KS
 - Formal opening on hold