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Clean Power Plan: Arkansas Department of Environmental Quality/Arkansas Public Service Commission Notice Regarding Post U.S. Supreme Court Stay Activities

Arkansas Environmental, Energy, and Water Law Blog

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The Arkansas Department of Environmental Quality and Arkansas Public Service Commission (collectively, “Agencies”) circulated a document asking for input in regards to questions that have arisen because of the United States Supreme Court’s stay of the Environmental Protection Agency Clean Power Plan.

As previously noted, <http://www.mitchellwilliamslaw.com/clean-power-plan-united-states-supreme-court-grants-stay-of-implementation> and <http://www.mitchellwilliamslaw.com/clean-power-plan-arkansas-department-of-environmental-quality/arkansas-public-service-commission-reaction-to-us-supreme-court-stay> the United States Supreme Court recently issued a stay of the Clean Power Plan.

The Agencies note that they are “pleased to have high-Court relief from the challenging federally mandated timeline with respect to the Clean Power Plan.” They also reference interest in Clean Power Plan engagement “on a timeline and in a context that makes sense and represents good stewardship of taxpayer resources for Arkansas, for our citizens, and for our regulated community.”

The Agencies pose the following questions in regards to the path forward in light of the United States Supreme Court stay:

1. Will EPA continue to seek comment on related issues that were not finalized in the rule that are subject to the stay? (e.g. the Clean Energy Incentive Program)
2. If the Clean Power Plan is ultimately upheld, how will the new compliance schedule develop?
3. Will modeling entities continue to optimize modeling and find agreement on modeling assumptions during the stay?
4. How do we, in our respective agencies, maximize the value of the resources already invested by the Agencies and stakeholders with respect to this rule and energy and environmental policy?
5. What is our obligation under Act 382 of 2015 (Ark. Code Ann. 8-3-203(b)(2))? Is the State required to suspend activity during the stay?
6. How does the stay impact the obligation of the Arkansas Public Service commission to provide a cost estimate for the Arkansas Clean Power Plan strategy?

7. How will the stakeholder group function during the stay, and are there benefits that may be derived from discussing energy and environmental policy implicated by other EPA rules?

The Agencies are requesting feedback in terms of the questions above (in particular 4-7) and ask that it be provided to the following email address: 111d@adeq.state.ar.us.

[Click here to download a copy of the February 12th correspondence.](#)