

In the Matter of an Investigation of the Cost to)
Missouri Electric Utilities Resulting from) File No. EW-2012-0065
Compliance with Federal Environmental Regulations)

Reply Comments of United for Missouri, Inc.

Comes Now United for Missouri, Inc. (“UFM”), by and through its undersigned counsel, and provides the following comments in the above referenced file.

I. Background

On August 30, 2011, the Missouri Public Service Commission (“Commission”) issued an Order Opening an Investigation into the Cost of Compliance with Federal Environmental Regulations.¹ The file was to be a repository for documents and comments. Using this file, “any person with an interest in this matter may view documents and may submit any pertinent responsive comments or documents.”² Then, on June 2, 2014, the United States Environmental Protection Agency (“EPA”) proposed guidelines for existing fossil fuel power plants under section 111(d) of the Clean Air Act, “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generation.”³ The Emission Guidelines are premised on EPA’s determination that the discharge of CO₂ from stationary sources “may reasonably be anticipated to endanger public health or welfare of current and future generations.”⁴ Responding

¹ See Order issued in File No. EW-2012-0065 (August 30, 2011).

² *Id.* at 2.

³ Environmental Protection Agency, Proposed Rule: Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 40 CFR Part 60, Vol. 79, No. 117, June 18, 2014 (hereinafter, “proposed rule” or “Emission Guidelines”).

⁴ 79 Fed Reg. at 34841.

to a motion of the Commission Staff filed on June 30, the Commission issued a number of orders scheduling a workshop meeting and directing responses to certain questions directed at understanding the impact of the Emission Guidelines. The workshop meeting was held on August 18, with subsequent written responses filed by various entities on August 25.

II. Introduction

UFM had an opportunity to attend the workshop meeting and review the initial written comments in this file and would now like to comment.

UFM is a nonprofit Mutual Benefit corporation organized under the laws of the state of Missouri. Formed in July 2010, UFM has more than 76,000 members, primarily residents of the state of Missouri. It is committed to serving its members and the public in educating them about and supporting economic policies in the state that will foster economic growth, opportunity and prosperity. UFM takes seriously the provision of the United States Declaration of Independence which declares,

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, -- That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

It is with this in mind, that UFM seeks to help state legislators, state-wide elected officials, state agencies, the media and individual citizens understand the role of government in securing individual rights to life, liberty and the pursuit of happiness, but also “the enjoyment of the gains of their own industry.” The Missouri Constitution, Article I, Section 2, declares:

That all constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty, the pursuit of happiness and

the enjoyment of the gains of their own industry; that all persons are created equal and are entitled to equal rights and opportunity under the law; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails in its chief design.

Only by protecting and defending the enjoyment of each individual's gains of his or her own industry may we have a thriving economy in the state of Missouri, the best way to foster prosperity for all Missourians.

III. Comments

UFM would like to thank the Commission for its foresight and commend it for its proactive efforts on behalf of the citizens of the state of Missouri in developing the record in this file. The questions it has propounded and the responses to those questions have been helpful in illuminating a difficult situation. UFM encourages the Commission to remain engaged as the EPA comment period comes to a close and to submit comments to the EPA that will protect and defend the electric customers of the state of Missouri from what appears to be an unwise and unreasonable action of the EPA.

UFM would also like to observe, as many others have already done, that these proposed rules are simply that, proposed. There is nothing cast in stone and the Commission should take full opportunity to comment on the EPA's proposed rules for the benefit of the state of Missouri and its citizens.

A. The State of Missouri Should Recognize and Exercise its Sovereign Authority in Response to the Emission Guidelines Issued by the EPA.

Before proceeding to specific recommendations, UFM would like to put forth what it believes to be some guiding principles. First, the state of Missouri, as do the other forty-nine states in this great republic, has a role to play in governing. Indeed, contrary to what many

believe, the states are the sovereigns in this republic, and the federal government is the servant. Going all the way back to the Declaration of Independence, the Founding Fathers believed that the colonies were the sovereigns. The last paragraph of the Declaration indicates,

That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do.

Note that Jefferson refers to the colonies in the same terms as he does the “State” of Great Britain. The states are not bureaucratic agencies of the federal sovereign, expected to do the fed’s express bidding. They were recognized as having “full Power” in all things which independent states have a right to do. It was for this same purpose that the Tenth Amendment to the U.S. Constitution recognized that all powers not granted to the federal government were “reserved” to the states or to the people.

State sovereignty is axiomatic in the U.S. Constitution. James Madison writes in Federalist No. 45,

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

Note that the powers of the federal government are “delegated” from the states to the federal government, not the other way around. The states were never to simply do the bidding of the federal government, but recognizing the federal servant’s limited authority in certain limited areas, they were to seek the protection of and harmony between the states. The federal government was to assist the states in governing.

The powers of the federal government have grown dramatically over the course of the past decades. “Thirty years of relentless growth in federal legislative and bureaucratic hegemony has produced a strong, pervasive national authority and a relatively weak state authority in these areas of public policy. So much political power has been reallocated to the federal government that, at times, the states could be mistaken for vassals of the federal government.”⁵

While the status of the states within the republic has been diminished over the years, some vestiges still remain. Chief Justice Roberts recognized the authority of the states in *National Federation of Independent Business et al. v. Sebelius*, 567 U.S. ____, (2012).

In the typical case we look to the States to defend their prerogatives by adopting “the simple expedient of not yielding” to federal blandishments when they do not want to embrace the federal policies as their own. *Massachusetts v. Mellon*, 262 U. S. 447, 482 (1923). The States are separate and independent sovereigns. Sometimes they have to act like it.

UFM would like to see the state of Missouri act like a separate and independent sovereign on this matter and not simply yield to the federal blandishment of the EPA.

Congress, at least to some extent, recognized states’ authority when it enacted the Clean Air Act. 42 U.S.C. § 7401(a)(3) provides “that air pollution prevention . . . and air pollution control at its sources is the primary responsibility of States and local governments.” Particularly as relates to the EPA’s proposal under section 111(d) of the Clean Air Act, the state has primacy. Section 111 (d) provides, in part,

The Administrator shall prescribe regulations which shall establish a procedure . . . under which each State shall submit to the Administrator a plan which (A) establishes standards of performance for any existing source for any air pollutant Regulations of the Administrator under this paragraph shall permit the State in applying a standard of performance to any particular source under a plan submitted under this paragraph to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies.

⁵ John P. Dwyer, *The Practice of Federalism Under the Clean Air Act*, 54 MD. L. REV. 1183, 1185 (1995).

The Administrator is only authorized to establish a procedure. The state shall submit the plan which establishes standards. In addition, the Administrator must permit the State to consider other factors, which include but are not limited to, the remaining useful life of the existing source.

UFM encourages the Missouri Commission to defend the state of Missouri's prerogative and to not adopt the simple expedient to yield to the federal blandishments of the EPA. Much of the authority of the states has been lost due to the states' predilection to yield in the past as Chief Roberts observation implies. UFM believes it is time to stop yielding. The citizens of the state of Missouri deserve to be defended against this federal bureaucratic edict. If there is to be a policy regarding climate change, the state of Missouri has the authority to make that judgment. If there is to be regulation of the state's power plants regarding the emissions of CO₂, the state of Missouri should make that call.

B. There is No Clear Scientific Evidence that Discharge of CO₂ from Stationary Sources May Reasonably be Anticipated to Endanger Public Health or Welfare.

Contrary to popular belief, the science on man-made climate change is not settled. As expressed in the Emission Guidelines, "In 2009, the EPA Administrator issued the document known as the Endangerment Finding under CAA section 202(a)(1). In the Endangerment Finding, which focused on public health and public welfare impacts within the United States, the Administrator found that elevated concentrations of GHGs in the atmosphere may reasonably be anticipated to endanger public health and welfare of current and future generations."⁶ However,

⁶ 79 Fed. Reg. 34841.

just because the Administrator made such a finding does not make it true scientifically and should not make it binding on the state of Missouri.

UFM is providing with this filing three publications. The first two are the following:

Idso, C.D, Carter R.M., and Singer S.F. 2013. (Eds.) *Climate Change Reconsidered II: Physical Science*. Chicago, IL: The Heartland Institute. (Attached as Exhibit A.)

Idso, C.D, Idso, S.B., Carter, R.M., and Singer, S.F. (Eds.) 2014. *Climate Change Reconsidered II: Biological Impacts*. Chicago, IL: The Heartland Institute. (Attached as Exhibit B.)

The third document, “Summary for Policymakers,” attached as Exhibit C, is a summary of Exhibit B. Each was published by the Heartland Institute on behalf of the Nongovernmental International Panel on Climate Change (“NIPCC”). Their conclusions are based on peer-reviewed studies.

As stated in the Conclusion to “Summary for Policy Makers,”

Climate Change Reconsidered II: Biological Impacts describes thousands of peer-reviewed scientific journal articles that do not support, and often flatly contradict, IPCC’s pessimistic narrative of “death, injury, and disrupted livelihoods.” The impact of rising temperatures and higher atmospheric CO₂ levels in the twentieth and early twenty-first centuries has not been anything like what IPCC would have us believe, and its forecasts differ wildly from those sound science would suggest.⁷

As the “Summary for Policy Makers” explains, the work of the NIPCC was privately commissioned and offered as an alternative to the “alarmist reports” of the United Nations’ Intergovernmental Panel on Climate Change, also known as the IPCC.

The above referenced publications and other significant counter evidence to “IPCC’s pessimistic narrative” can be found at the following site: <http://climatechangereconsidered.org/>. UFM highly recommends the reading of the “Summary for Policymakers.” It is a good summary and highlights many salient points showing that the impact of CO₂ emissions on the earth’s

⁷ See p. 15.

climate is insignificant, that the earth's ecosystem is design to counter changes in CO₂ concentrations in the atmosphere, and that increased CO₂ concentrations in the atmosphere is actually beneficial to plant and animal life.

If this evidence were not enough, the most recent anecdotal evidence is that industrial CO₂ discharges have very little to do with climate change or the endangerment of public health or welfare. The anecdotal evidence is that last winter and this summer have been significantly colder than past years. It was not until the third week in August that high temperatures consistently achieved the ninety degree mark in the state of Missouri. This is contrary to the trend one would expect from a hypothesis of consistent global warming from CO₂ discharges by modern technology. In years past, temperatures routinely climbed into the 90s well prior to August. The one pesky thing about the scientific method is that if observation and experimentation do not support a hypothesis, the hypothesis must be changed. It is hard to prove a hypothesis, but is easy to disprove one. If man-made climate changers were the overriding factors in the climate that they are portrayed to be, there would be very few forces in nature that could override those changers. Clearly, the polar vortex and other natural phenomena have dwarfed and will continue to dwarf the impact of industrial CO₂ discharges for the foreseeable and indefinite future.

C. The Commitment that the Discharge of CO₂ from Stationary Sources May Reasonably be Anticipated to Endanger Public Health or Welfare is at Best a Commitment of Faith, a Faith the State of Missouri Need Not Adopt.

Since the science of man-made climate change is not settled, the only explanation for the commitment to the theory is blind faith.⁸ Faith is defined as a “firm belief in something for

⁸ The NIPCC characterizes the IPCC as “politically motivated.” “This organizational structure and purpose stand in contrast to those of the United Nations’ Intergovernmental Panel on Climate Change (IPCC), which *is* government

which there is no proof.”⁹ In another place, faith is defined as, “the assurance of things hoped for, the conviction of things not seen.”¹⁰ There is no definitive proof on the apocalyptic narrative of “death, injury, and disrupted livelihoods” caused by industrial discharges of CO₂. There is simply faith.

The Sierra Club expressed the faith well in its Comments:

The risks of climate disruption to Missouri are dramatic. More frequent, extreme weather events such as floods and tornados are already taking a toll. In 2008, all but five Missouri counties were subject to federal storm or flood-related federal disaster declarations. In 2011 and 2012, Missouri ranked 7th in the nation in federal disaster recovery spending at \$2.5 billion. Temperature extremes and drought are expected to cause higher heat stress on agricultural crops and livestock, decreasing yields. Crop pests are expected to increase. For example, conditions conducive to corn earworm currently occur approximately three times every 10 years in southern Missouri. These conditions are expected to increase to nearly every year by the end of the century. Accordingly, a huge portion of Missouri’s economy is at risk. Corn alone is a \$1.9 billion industry in Missouri. The state is one of the nation’s top agricultural producers, and is second in the nation for the highest number of farms.¹¹

The evangelical fervor here is commendable but not persuasive. Sierra Club lays out its claim in the first sentence. “The risks of climate disruptions to Missouri are dramatic.” In the following three sentences it then identifies the dramatic events but does not identify any cause. Floods and tornados have always taken a toll. That is weather. The statistics provided do not provide causal links or even a demonstrable trend over time to suggest a progression resulting from a cause.

Rather, the appeal is to “expectations” of temperature extremes and draughts, pests, and earworms. Science is not a matter of “expected” events but of demonstrable results from

sponsored, politically motivated, and predisposed to believing that climate change is a problem in need of a U.N. solution.” See Exhibit C, “About NIPCC and Its Previous Reports,” unnumbered second page. UFM prefers to be more charitable to those advocating this position in this docket.

⁹ Merriam Webster’s Collegiate Dictionary 418 (10th ed. 1993)

¹⁰ Hebrews 11:1 (English Standard Version)

¹¹ See “Comments in Response to Orders Directing Response to Certain Questions” (“Sierra Club’s Comments”) at p. 1. Sierra Club’s Comments are posted at:

https://www.efis.psc.mo.gov/mpsc/commoncomponents/view_itemno_details.asp?caseno=EW-2012-0065&attach_id=2015004532.

experimentation showing cause and effect. These “expectations” are more akin to convictions of things not seen than they are verifiable facts. The fact that a federal agency, the EPA, has mandated this article of faith makes it no less a commitment with no proof.

Some faith commitments affirm the following principle: “While the earth remains, seedtime and harvest, cold and heat, summer and winter, day and night, shall not cease.”¹² While UFM will not here attempt to persuade anyone to this faith commitment in this docket, this hypothesis has more validity and solid evidence supporting it than does the apocalyptic faith of Sierra Club and EPA.¹³ Over six thousand years of recorded human history proves that seedtime and harvest, cold and heat, summer and winter, have not significantly changed beyond their set cycles. Certainly, there have been cooling as well as warming trends. However, the massive ecosystem, which is the earth, is capable of accommodating and buffering such trends and set the earth in balance once again.¹⁴ Inasmuch as this is the verifiable and certain evidence of over six thousand years of human observation, those arguing otherwise must bear the burden in persuading the state of Missouri to this new view. And since the state of Missouri has sovereignty and primacy on this matter, the citizens of the state of Missouri have a right to have their state officials make the decisions on this matter.

¹² Genesis 8:22 (English Standard Version).

¹³ While UFM is not using this quotation as authority, it could. Sir William Blackstone, in his *Commentaries on the Laws of England*, wrote that in the English American common law tradition, “THIS law of nature, being co-eval with mankind and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times: no human laws are of any validity, if contrary to this; and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original.” Blackstone goes on to write, “UPON these two foundations, the law of nature and the law of revelation, depend all human laws; that is to say, no human laws should be suffered to contradict these.” See Blackstone, *Commentaries*, I:41, 42.

¹⁴ See Exhibit C.

D. The Emission Guidelines Fail to Justify the Exorbitant Cost They Will Impose on Utility Customers.

As the utility companies presented on August 18, strict compliance with the rule as proposed would be disastrous for the economy in the state of Missouri. Peabody Energy Company summarized the utilities' information well in its initial comments.

To understand the feasibility of these assumptions, the Commission can look no further than the regulated entities that would shoulder the lion's share of the compliance obligation under any Section 111(d) state plan. On August 18, 2014, the two largest utilities in the state, Ameren Corporation (Ameren) and Kansas City Power & Light (KCP&L) provided comments to the Commission challenging the feasibility of most or all of these Building Blocks, and indicating the likelihood of substantial increased customer rates as a result of EPA's proposed rule – in Ameren's case, a ***\$4 billion increase in costs that will result in increased rates four times that of its baseline case.*** Beyond rate increases, Southwest Power Pool (SPP), a regional transmission organization (RTO) that covers portions of Missouri, predicts severe reliability issues in 2020 and beyond in its footprint based on EPA-assumed baseload plant retirements. In turn, this will require massive investment in new generation and infrastructure that cannot be completed in the short time frame allotted by EPA. [Emphasis in the original; footnotes omitted]¹⁵

Considering the impact to Ameren Missouri alone, Ameren Missouri has approximately 1.2 million customers.¹⁶ The simple math indicates that this would be an **incremental** cost of approximately \$3,333 for each Ameren Missouri customer. Such a cost is unjust and unreasonable based on the questionable scientific evidence on man-made climate change.

But this need not be. Not only is EPA's scientific judgment on the impact of the discharge of CO₂ from stationary sources on the health and welfare flawed, EPA is clearly acting beyond its authority in its issuance of the Emission Guidelines. Its manifest errors are evidence

¹⁵ See "Comments of Peabody Energy Company" ("Peabody's Comments"), at pp. 2, 3. Peabody's Comments are posted at: https://www.efis.psc.mo.gov/mpsc/commoncomponents/view_itemno_details.asp?caseno=EW-2012-0065&attach_id=2015004525.

¹⁶ See "Facts About Ameren Missouri," <http://www.ameren.com/sites/aue/AboutUs/Documents/AmerenMissouriFactSheet.pdf><http://www.ameren.com/sites/aue/AboutUs/Documents/AmerenMissouriFactSheet.pdf>.

of its power grab. First, rather than proposing guidelines permitting states to respond with flexible standards, the EPA has issued inflexible standards that states are compelled to meet.¹⁷ Second, the Emission Guidelines go well beyond the fence line and actual emissions of power plants to dictating what units will be utilized and dispatched in the market. Third, its calculus for measuring compliance diminishes gains made in reasonable business planning, i.e. plant retirements.¹⁸ These three components of the Emission Guidelines alone are a system of burdens on the economy that are unacceptable. UFM asserts that it is the state's duty to oppose these components of the Emission Guidelines.

The good news is that Ameren, KCP&L, and Empire all indicated these significant incremental costs can be avoided if the state of Missouri exercises its authority and denies the EPA its power grab. In its written Ameren Missouri Responses, Ameren Missouri stated that,

Ameren Missouri believes the statewide goals established by the EPA for Missouri may be achievable, but not on the timeline established by the EPA. States should be given much more flexibility to implement their own compliance plans. Specifically, the interim goals should be eliminated and states should be given the flexibility to establish (or not) their own interim targets/milestones. States should also be afforded the flexibility to extend the 2030 target date as necessary to allow the orderly retirement of existing coal plants consistent with their remaining useful lives so as to not cause reliability and resource adequacy concerns.¹⁹

KCP&L and Empire stated at the workshop meeting that they can comply with the proposed statewide goals provided there is some flexibility in how their Kansas wind generation is

¹⁷ See 79 Fed. Reg. 34895 (Table B).

¹⁸ The adjusted average rate is calculated as follows:

$$\frac{(\text{Coal gen.} \times \text{Coal emission rate}) + (\text{OG gen.} \times \text{OG emission rate}) + (\text{NGCC gen.} \times \text{NGCC emission rate}) + \text{"Other" emissions}}{\text{Coal gen.} + \text{OG gen.} + \text{NGCC gen.} + \text{"Other" gen.} + \text{Renewable gen.} + \text{"at risk" Nuclear gen.}}$$

However, the calculation makes no accommodation for reductions in "Coal gen." in the numerator other than reductions to accommodate NGCC gen. See "Understanding EPA's Proposed Carbon Pollution Goal for Missouri," <http://www.dnr.mo.gov/env/apcp/docs/carbon-pollution-stakeholder-meeting-goal-presentation-07-14-2014.pdf>.

Note particularly steps 5a and 6.

¹⁹ p. 10.

allocated between Kansas and Missouri. In light of these judgments, it is critical that the state of Missouri take the initiative in responding to the EPA's edict and proactively assert the state's jurisdiction in order to ameliorate the dire consequences indicated by the EPA's edict.

E. The Commission's Authority Extends to Assuring that the State's Electric Utility Services are Provided in a Safe and Reliable Manner at Rates that are Just and Reasonable.

UFM would like to echo Peabody Energy in its observation of the role of the Commission in this endeavor, to assure the people of Missouri receive safe and reliable electric utility services at just and reasonable rates. In this the Commission needs very little reminding. It has done an excellent job in anticipating concerns and issues in the EPA's Emission Guidelines.

The Commission's responsibility is to ensure that "every electrical corporation, . . . shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such . . . corporation for . . . electricity, . . . or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission" ²⁰ In addition, the Commission has "power to order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas, electricity, water, or sewer system" ²¹ Clearly, the Commission has the authority to engage issues of public interest and public health in the context of utility service.

The EPA does attempt to override the Commission's integrated resource planning rules and the free market principles within the two RTO energy markets in Missouri. The Emission

²⁰ §393.130, RSMo.

²¹ §393.140 (2) RSMo. (emphasis added).

Guidelines would drive the dispatch of the electric generation resources from an economic dispatch to an environmental dispatch, resulting in higher costs for all citizens. This is clearly not in the interest of Missouri citizens. The Commission has the authority and should do everything within its power to fulfill its obligation to promote the public interest as directed by state statute.

The Commission has dealt with three cases this year, ostensibly involving issues of economic development and its authority. In one, the question before the Commission was whether it could grant one customer a special rate not based on a cost of service study in order to maintain that customer's viability in the southeast portion of Missouri. In a second, the question before the Commission was whether a customer could bring a complaint against a utility and obtain a reduction in rates for all customers on evidence which was less than a consideration of all relevant factors. In the third, a developer of a high voltage direct current transmission line is seeking authority to construct its line through the northern portion of the state of Missouri. In each case, UFM has supported strong and free markets in the state of Missouri with minimal state regulatory intervention. While UFM does not support the state of Missouri picking winners and losers in free markets, it does support governmental action that allow as many as possible to be winners in free markets. And in this situation the Commission can use its authority to achieve economic development in the state by opposing unjust and unreasonable regulation, and the resulting cost, sought to be imposed by the federal EPA.

IV. Recommendations

In light of these considerations, UFM has the following recommendations:

1. The Commission should file comments with the EPA opposing the Emission Guidelines and requesting that they be withdrawn. The state of Missouri is a free and

independent state. It has bound itself to forty-nine other free and independent states under the U.S. Constitution. That Constitution did not divest the State of Missouri of its sovereignty. The state of Missouri has the authority and primacy to address these issues on its own.

The Emission Guidelines, issued by the federal servant, is an unjust and unreasonable attempt to usurp the authority of the state based upon insufficient scientific evidence and a faith commitment unjustified within the state of Missouri. It inordinately interferes with the market run by the two RTOs serving the electric utilities with the state. As a sovereign state, the state of Missouri has the right and obligation, on behalf of its citizens, to make the determinations whether the state is going to be bound by the unjustified conclusions of this federal bureaucracy.

2. The Commission should conduct an on-the-record hearing related to EPA's Emission Guidelines. Peabody Energy Company has an excellent suggestion. The state of Missouri has primacy in this matter. However, the EPA has committed the nation to a course based on dubious and flawed evidence. If the state is to commit its people to this new faith at a significant expense, the state must have a record in which to make that judgment. The legislature will ultimately be called upon to develop the state's legal response to EPA's edict. A record established by the Commission can go a long way to guide the legislature in its final determination.
3. EPA's usurpation of Missouri's authority and sovereignty is apparent in the details of its Emission Guidelines. The inflexible deadlines, interference with the selection of resources rather than limits on particular generating resources, and the flawed calculation method are all beyond its authority and infringe on the state's ability to

provide safe and reliable electric service to its citizens. Failure to correct these manifest flaws will impose economic burdens on the state that are unacceptable. The state should also receive the benefit of renewable credits for the power for which it is the recipient. Renewable generation occurring outside of the state must be recognized for the benefit of the citizens served by such generation. All of these shortcomings of the Emission Guidelines compromise the authority of the state. As a result, the Commission should make detailed comments critiquing these flaws in the Emission Guidelines and direct the EPA to correct them.

UFM once again thanks the Missouri Commission for this opportunity to comment and commends it for its leadership. It requests the Commission continue in its leadership as is consistent with the laws of the state of Missouri and beneficial to the free economy we have come to enjoy in this state.

Dated: September 16, 2014.

Respectfully Submitted

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I hereby certify that a true and correct PDF version of the foregoing was sent by email on this 16th day of September, 2014, to all individuals on the Commission's distribution list.

/s/ David C. Linton