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# QUESTIONING SECRETARY PERRY'S POLICY PROPOSALS: SHOULD THIS BE STANDARD PRACTICE AFTER HIS RECENT "ECONOMICS LESSON"?

[Natural Resource \(/full-blog/category/Natural+Resource\)](#)

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(For purposes of this discussion please look past the fact that Rick Perry now heads the department he once forgot he wanted to abolish during a Presidential debate.[i])

Secretary of Energy, Rick Perry, recently released a proposal that would guarantee profits to coal fired power plants that maintain 90 days of fuel on site as protection against the electricity grid failing.[ii] Secretary Perry issued the Notice of Proposed Rulemaking under Section 403 of the Department of Energy Organization Act, subsection (a), which authorizes the secretary and the commission "to propose rules, regulations and statements of policy of general applicability with respect to any function within the jurisdiction of the commission." [iii] Interim Chairman of the Federal Energy Regulatory Commission, Neil Chatterjee, said that "baseload power ... including our existing coal and nuclear fleet, need to be properly compensated to recognize the value they provide to the system." [iv]

Secretary Perry's suggestion that coal reserves are necessary to protect the electricity grid from failing is unsubstantiated given a recent report by the Rhodium Group which found that over the past five years only .00007% of major power disruptions nation-wide were due to fuel supply problems.[v] According to the report, the vast majority of power disruptions were caused by severe weather events knocking down power lines.[vi]

A second rationale for Secretary Perry's proposal was outlined in the Department of Energy's grid study released in August, 2017, which warned that "premature retirements of fuel-secure baseload generating stations reduces resilience to fuel supply disruptions." [vii] However, the grid study went on to quote the North American Electric Reliability Corporation's most recent State of Reliability report that concluded "bulk power system reliability remained ... adequate" in 2016, a finding that has remained stable for the past four years.[viii]

The coal industry is a relic of the past that should not be artificially sustained by disguised government subsidies such as this profits guarantee scheme. Secretary Perry argues that over last eight years, the Obama administration was “putting its thumb on the economic scale, as well as the technology scale” pushing the energy agenda their political party preferred.[ix] In his memo ordering the aforementioned grid reliability study, Secretary Perry noted “regulatory burdens introduced by previous administrations that were designed to decrease coal-fired power generation . . . have destroyed jobs and economic growth, and they threaten to undercut the performance of the grid well into the future.”[x] Yet, Secretary Perry’s proposal guaranteeing profits for coal is essentially placing the current administration’s thumb on the other side of the scales, an action which is best characterized by the age-old idiom, “the pot calling the kettle black.”



<http://www.energycentral.com/c/gn/rick-perry%E2%80%99s-proposed-electric-grid-reform-step-right-direction>

If, as surmised, the principle motivation for Secretary Perry’s guaranteed profits proposal for coal is actually politics, would his political agenda not be better served by using government resources to promote new growth in the regions affected by coals decline? Clean renewable energy sources, such as solar and wind, are set to account for 72% of all investment cash spent on new power generation worldwide to 2040.[xi] Technology improvements and the benefits of scale have drastically lowered the costs of solar and wind installations, with cost projections for utility scale solar and wind facilities coming online in 2022 to be lower per megawatt hour by almost every measurement than coal.[xii] Additionally, the threat of power disruptions can be solved by investing in utility-scale batteries which increasingly compete with natural gas to provide system flexibility at times of peak demand.[xiii]

Our great state of Kentucky, where coal and natural gas provide 94% of our power, is hobbled in the competition for investment dollars and jobs as big businesses such as Toyota, Ford, and L’Oreal, which currently employ thousands of Kentuckians, aim to be zero-carbon companies by 2050.[xiv] Kentucky coal production decreased in 2016 by 29.9 percent from 2015, to 42.9 million tons, a level of production not seen since 1922.[xv] As of 2014, burning coal produced 39% percent of global CO<sub>2</sub> emissions.[xvi] Coal kills thousands of people each year in mines, and many more with polluted air.[xvii]

It seems clear that the move away from coal is an unstoppable force, but political and regulatory realities are holding back renewables at a time when climate *realities* should be propelling them forward.[xviii] There is a global competition for investment dollars in renewables, but given current proposals, America and Kentucky are losing out on what will inevitably power the future; costing us jobs, exacerbating climate change, and providing false hope to depressed areas in the heart of Appalachia.

- [i] Juliet Eilperin & Steven Mufson, *Trump Taps Former Texas Gov. Rick Perry to Head Energy Department He Once Vowed to Abolish*, *The Wash. Post* (Dec. 14, 2016), [https://www.washingtonpost.com/news/energy-environment/wp/2016/12/13/trump-taps-former-texas-gov-rick-perry-to-head-energy-department-he-once-vowed-to-abolish/?utm\\_term=.a51c9ee24d31](https://www.washingtonpost.com/news/energy-environment/wp/2016/12/13/trump-taps-former-texas-gov-rick-perry-to-head-energy-department-he-once-vowed-to-abolish/?utm_term=.a51c9ee24d31).
- [ii] James Rising, *Rick Perry's Plan To Help Coal Could Hold Back Renewables, But It Isn't The Only Barrier*, *Forbes* (Oct. 31, 2017), <https://www.forbes.com/sites/ucenergy/2017/10/31/secretary-perry-coal-subsidy-could-hold-back-renewable-growth-but-it-wouldnt-be-the-only-barrier/#233204d221b9>.
- [iii] Rich Heidorn Jr., *FERC's Independence to be Tested by DOE NOPR*, *RTO Insider* (Oct. 2, 2017), <https://www.rtoinsider.com/ferc-doe-cybersecurity-rick-perry-76484/>.
- [iv] *Id.*
- [v] Trevor Houser et. al., *The Real Electricity Reliability Crisis*, Rhodium Group (Oct. 3, 2017), <http://rthg.com/notes/the-real-electricity-reliability-crisis>.
- [vi] *Id.*
- [vii] Heidorn, *supra* note iii.
- [viii] *Id.*
- [ix] Joshua M. Patton, *Rick Perry Gives "Economics Lesson," Has No Idea How "Supply and Demand" Works At All*, *Latest.com* (July 6, 2017 at 8:00pm), <https://latest.com/2017/07/rick-perry-gives-economics-lesson-has-no-idea-how-supply-and-demand-works-at-all/>.
- [x] Abby Harvey, *DOE Grid Study Points Finger at Natural Gas*, *Power Mag* (Aug. 24, 2017), <http://www.powermag.com/doe-grid-study-points-finger-at-natural-gas/>.
- [xi] *New Energy Outlook 2017*, Findings, Bloomberg New Energy Finance, <https://about.bnef.com/new-energy-outlook/>.
- [xii] *See Levelized Cost and Levelized Avoided Cost of New Generation Resources in the Annual Energy Outlook 2017*, U.S. Energy Information Administration (Apr. 2017), [https://www.eia.gov/outlooks/aeo/pdf/electricity\\_generation.pdf](https://www.eia.gov/outlooks/aeo/pdf/electricity_generation.pdf).
- [xiii] *New Energy Outlook 2017*, *supra* note xi.
- [xiv] Greg Kocher, *Ky. Must step up renewable energy*, *Lexington Herald-Leader* (Apr. 18, 2017 8:04pm), <http://www.kentucky.com/opinion/editorials/article145344484.html>.
- [xv] Ky. Energy and Envtl. Cabinet, Dep't for Energy Dev. and Independence, *Kentucky Coal Facts* (17th ed. 2017) <http://kentuckycoal.org/downloads/ky-coal-facts-2017.pdf>.
- [xvi] Michelle Nijhuis, *Can Coal Ever Be Clean*, *Nat. Geographic* (Apr. 2014), <http://ngm.nationalgeographic.com/2014/04/coal/nijhuis-text> (<http://ngm.nationalgeographic.com/2014/04/coal/nijhuis-text>).
- [xvii] *Id.*
- [xviii] Rising, *supra* note ii.

#### ADDENDUM -JAN. 18, 2018

On Monday, January 8th, 2018, regulators for The Federal Energy Regulatory Commission (FERC) rejected Secretary Perry's Notice of Proposed Rulemaking (NOPR) stating it "failed to satisfy the fundamental legal requirements of Section 206 of the FPA." [i] Secretary Perry rationalized the proposal by conjuring up fears of the fragility of the Nation's electrical grid, an assertion the agency summarily rejected in stating,

There is no evidence in the record to suggest that temporarily delaying the retirement of uncompetitive coal and nuclear generators would meaningfully improve the resilience of the grid . . . [r]ather, the record demonstrates that, if a threat to grid resilience exists, the threat lies mostly with the transmission and distribution systems, where virtually all significant disruptions occur.[ii]

Joshua Rhodes, a Forbes Contributor, may have summed up this proposal best by describing it as “at best a solution (subsidize coal and nuclear) in search of a problem (fuel reliability), and at worst a market-distorting intervention in the spirit of picking specific winners and losers on top of the direct and indirect subsidies that coal and nuclear already receive.”<sup>[iii]</sup> Free market capitalists and environmental activists alike may not rejoice FERC’s decision.

[i] Joshua Rhodes, *Perry Says NOPR; FERC Says Nope (To Propping Up Coal)*, Forbes (Jan. 8, 2018), <https://www.forbes.com/sites/joshuarhodes/2018/01/08/perry-says-nopr-ferc-says-nope-to-propping-up-coal/#2ec3bff86b0b> (<https://www.forbes.com/sites/joshuarhodes/2018/01/08/perry-says-nopr-ferc-says-nope-to-propping-up-coal/#2ec3bff86b0b>) .

[ii] Brad Plumer, *Rick Perry’s Plan to Rescue Struggling Coal and Nuclear Plants Is Rejected*, MSN News (Jan. 8, 2018), <https://www.msn.com/en-us/news/us/rick-perry’s-plan-to-rescue-struggling-coal-and-nuclear-plants-is-rejected/ar-BBI8ntB?li=BBmkt5R&ocid=spartanntp> (<https://www.msn.com/en-us/news/us/rick-perry’s-plan-to-rescue-struggling-coal-and-nuclear-plants-is-rejected/ar-BBI8ntB?li=BBmkt5R&ocid=spartanntp>) .

[iii] Rhodes, *supra* note i.

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