

Jackson, Tricia

From: Moody, Gary <gmoody@audubon.org>
Sent: Monday, February 22, 2016 1:49 PM
To: 111d
Subject: Stay questions for stakeholder group

On behalf of Audubon Arkansas, thank you for the opportunity to respond to some of the questions the agencies are facing as the next steps are determined for work on the Clean Power Plan. I have provided our organization's feedback as requested for questions 4-7. Please let us know if you have any follow up questions.

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?](#)

In short, don't stop working on it. Both the agencies and the stakeholders have made considerable investment to prepare Arkansas to implement a state compliance plan. Until the law is reversed by a court, it is most reasonable to proceed and make good use of the additional time the stay has allowed. It is in the best interest of Arkansas for the agencies to continue planning a path forward to reduce carbon emissions, spur clean energy investments and advance the inevitable shift to cleaner energy sources.

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?](#)

Act 382 has no bearing on the stay. The legislation is silent on the issue, therefore the State is not required to suspend activity during the stay.

Ark. Code Ann. 8-3-203(b)(2)- If the federal emission guidelines are not adopted or are adopted and subsequently suspended or held to be contrary to law, a state agency shall suspend or terminate, as appropriate, further action to implement or enforce the state plan.

The federal emission guidelines have been issued and subsequently suspended, however at this time it is not appropriate to suspend or terminate further action to create a state plan. The state is currently not implementing or enforcing a state plan. The State still needs to be prepared with a state plan to comply in the substantially likely scenario that the CPP is upheld. It is the responsibility of the State to be prepared if compliance is required and the State should continue planning for compliance. At this point in time it would be premature to suspend activity, and would squander valuable planning time.

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?](#)

See earlier answer. A stay has no impact on any statutory obligations. It is not a final or determinative legal answer. Only in the case of a final termination of the CPP by either executive action or a binding court decision would have an impact on the agencies obligations.

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?](#)

It is our vision that the stakeholder group would continue to function as previously planned during the stay. Of course there are benefits that would emerge from continued discussion of the CPP and other EPA rules. I encourage the stakeholder group to continue sharing information and meeting regularly to discuss the best path forward to advance Arkansas's energy policies.

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