

Good afternoon Judge Sutin and Ms. Falon. My name is Bryce Freeman and I am the Administrator of the Wyoming Office of Consumer Advocate. My business address is 2515 Warren Avenue, Suite 304, here in Cheyenne. The OCA is a public interest advocacy organization that represents the interests of utility consumers and Wyoming citizens in matters involving public utilities.

I am pleased to have the opportunity to appear here this afternoon. I was present at the initial hearing you held here in Cheyenne on June 24th, but because the initial schedule for public hearing in this matter was very compressed I did not have time to prepare meaningful testimony prior to that hearing. I am glad that the EPA has elected to hold two additional hearings to take public comment in this matter and I am certain that you will receive evidence relevant to your decision regarding the proposed Federal Implementation Plan or FIP.

At the June 24th hearing you heard testimony from many experts at the Wyoming Department of Environmental Quality, owners of generation resources in Wyoming that will be subject to compliance with the re-proposed rule on Regional Haze and a couple of interested members of the public. The DEQ witnesses and the utility witnesses generally opposed implementation of the revised rule on Regional Haze on the grounds that it will require a substantially larger investment in emission control facilities with no discernable improvement in visibility. Several of the witnesses at that hearing mentioned that Wyoming utility ratepayers would be adversely impacted by implementation of the FIP.

The OCA is the organization under state law that is statutorily charged with advocating the best interests of Wyoming utility ratepayers and it is therefore fitting that I appear before you today to give you my perspective on the FIP on their behalf. And, I want to be clear from the outset that the price and the reliability of service provided to Wyoming electric utility ratepayers and citizens will be adversely impacted by

implementation of the FIP, as indicated by several witnesses in the earlier hearing.

In fact, Wyoming rate payers and citizens have been and will continue to be adversely impacted by implementation of the SIP as originally proposed by the DEQ. Under the terms of the SIP, Wyoming utilities will be required to make improvements to their existing coal fired power plants, including the installation of Low Nox burners, Selective Non-Catalytic Reduction systems, Selective Catalytic Reduction systems, fabric filters, or a combination of all of those emission reduction systems at various plants around the state. In some cases, as with Rocky Mountain Power's Naughton Unit 3, the unit will be converted to natural gas.

All of these compliance obligations have a cost associated with them. For the plants that will be upgraded to comply with the BART requirements under the Clean Air Act, the cost will be the new capital and annual operating costs associated with the emission systems that must be installed. For those that are converted it will be the capital associated with the conversion as well as the cost of acquiring replacement base load generation capacity since the converted plants will provide only a fraction of the generation capacity of the plant burning coal. And for the plants that are retired it will be the capital cost of replacing the lost capacity as well as the cost to decommission the existing plant.

All of these costs, assuming that they are prudently incurred, will be borne by Wyoming ratepayers in proportion to their use of the system. Make no mistake. Shareholders will not pay these additional costs, ratepayers will. That is why it is critically important that we get the balance between ratepayer impacts and the reasonable progress requirement contained in the Regional Haze rule right. On average, electric rates for Wyoming customers have increased somewhere between 40 and 60 percent over the last decade, depending on the class

of service and the electric provider. Electric utilities in Wyoming must continually make new investments in their existing systems to replace aging and inadequate distribution, transmission and generation infrastructure, as well as to provide for future growth in demand. Compliance with environmental requirements, including not only the Regional Haze rule, but the MATS rule and forthcoming rules on coal combustion residuals and cooling water intake structures, will be an increasingly large portion of the new capital that the utilities must deploy in order to continue providing safe, adequate and reliable service.

Yet, I don't believe that the ratepayers and citizens that I represent oppose the adoption of or compliance with common sense environmental rules and regulations. Certainly, the legal standards contained in the Clean Air Act are enforceable by the courts so compliance is not optional. Still, the Clean Air Act gives the EPA wide latitude in determining the appropriate limits for emissions under the Act and invites much discretion for the states. Investments that make tangible progress toward the goal of restoring natural visibility by 2064 are consistent with consumers' interest in safe, adequate and reliable service. I am baffled, therefore, as to why the EPA would reject a SIP adopted through hard won consensus, and based on science, and adopt a FIP that achieves no discernable improvement in visibility but dramatically increases the cost of compliance. That is the antithesis of the common sense environmental regulation that my constituents would accept.

Rocky Mountain Power reports that its incremental capital costs to comply with the FIP are estimated to be more than \$300 million with annual incremental operating costs in the range of \$6.5 to \$7 million. Similarly, Basin has said that the capital investment required to bring its Laramie River Station into compliance with the FIP is in the range of \$600 million with a commensurate increase in annual operating costs. Based on these estimates the total annual incremental cost to comply

with the FIP will be in excess of \$100 million which is real money in my world. We know that compliance with the SIP will cause customer rates to increase. It doesn't make sense to further exacerbate that impact by requiring significant additional investments that will not lead to a discernable visibility improvement in the targeted Class I areas in Wyoming.

I am skeptical of the modeling and cost analysis undertaken by the EPA in concluding that the previously cited investments are cost effective for Wyoming ratepayers. Having just concluded two recent dockets in which RMP sought CPCNs for authority to construct SCR units at Naughton Unit 3 and Jim Bridger Units 3 & 4, one of the most important conclusions that can be drawn from those cases is that no two of these projects are the same. None of these plants, whether they were originally constructed in the 1950s or 1960s, or in the 1970s or 1980s, was originally designed to accommodate the types of pollution control retrofit equipment contemplated in either the SIP or the FIP. Planning, engineering and installing this equipment takes time and must be done on a plant by plant basis. The cost of the installation depends on a number of factors, including, among other things, available space, the original design of the plant and the placement of existing environmental controls. Many of these costs are more or less fixed and don't depend on the size of the plant. It is puzzling to me, therefore, how scaled average costs can be fairly representative of the cost to install the controls mandated by the re-proposed rule, as postulated by the EPA.

Further, in its re-proposed rule, the EPA found that the limits and technologies mandated in the rule are cost effective based on amortizing those costs over a 20 year period. Here, the Agency's cost modeling is seriously flawed as many of the units subject to the new rule have remaining lives significantly less than 20 years. For example, Dave Johnston has a remaining life of only 14 years and Naughton 16 years. Amortizing the larger investment required by the FIP over these shorter

lives would cause rates to go up even more, casting doubt on the veracity of the EPA's conclusion that the FIP is cost effective.

I am also deeply concerned that the investments mandated under the FIP will have significant adverse impacts on the quality and reliability of service provided to Wyoming ratepayers. The SIP is a well vetted plan by the WDEQ and Wyoming stakeholders that, in association with other regulatory requirements such as the CPCN process, assures that Wyoming utilities will be able to comply with its requirements with the least amount of impact to customers. The FIP, on the other hand, will assure not only that compliance is needlessly expensive, but that it is also rushed, that scheduled outages can't be timed to minimize the cost of replacement power, and that third party vendors will have free reign in determining how much a particular project costs. To the extent that schedules can't be met, non-compliant plants will be forced out of service until the work is done. Such outages will necessitate the purchase of replacement power in the market and will result in diminishing system reserves, all of which will jeopardize system reliability and increase costs for ratepayers.

Finally, the rule implementing the FIP will have serious adverse impacts to the general citizenry of Wyoming. Rocky Mountain Power alone employs more than 1,400 Wyoming citizens, many of whom work in the coal fired plants and coal mines owned by the Company. Countless others work in unaffiliated mines and other businesses on which Rocky Mountain Power depends to keep its generation fleet running safely and reliably. Wyoming electric utilities provide more than \$50 million annually in property taxes to the state and to local governments, a large portion of which is tied directly to investments in base load, coal fired generation plants located in Wyoming. Those tax dollars support K-12 education, local road and infrastructure projects and public safety operations, among other needs. To the extent that the new rule makes coal fired generation plants in Wyoming uneconomic to run, those plants

will be closed and replaced with higher cost generating resources, likely located outside of Wyoming. In the process, many good paying jobs will be lost and the economic vitality of the state and its citizens will be diminished.

In summary, the FIP will result in greatly increased capital investment in control devices and accelerated deadlines for compliance in comparison to the SIP previously issued by the DEQ. These increased investments, however, will result in no discernable improvement in visibility in Wyoming's Class I Areas. Adoption of the FIP will have serious and long lasting adverse impacts on the citizens and ratepayers of the state of Wyoming. The DEQ's approval of the SIP was based on solid analysis of the estimated cost to retrofit each source in the plan, pursuant to the BART rules, unlike the EPA's analysis which is based on average installation costs scaled to fit the various sources in Wyoming. The EPA's cost effectiveness determination is also based on unreasonably long amortization periods. As admonished earlier by Governor Mead, the EPA should defer to the determination of the state in this matter. I urge you not to adopt the rule as it was re-proposed in May of this year and instead adopt the SIP developed by the DEQ.