

COUNTERFLOW

BY STEVE HUNTOON

Where to Begin? Or End?

By Steve Huntoon

I'd like to thank Energy Secretary Rick Perry for granting, albeit ungraciously, new FERC Chair Kevin McIntyre's request for 30 days to clean up one of the biggest piles ever dumped on FERC's doorstep. As *The Economist* said last week: "In the fierce competition for the federal government's worst policy, this is a contender."¹

Perry's letter came the same day coal magnate Bob Murray said two totally opposite things: One, he can sell all his coal to China no problem.² Two, "we must have" the Perry plan immediately.³ Setting a new bar for cognitive dissonance.

Perry's letter included a lot of saber rattling. Like maybe he's going to do something before or even after FERC acts.

Perry's Legal Authority is Slim to None, and Slim Left Town

The saber rattling is interesting because those pesky lawyers already told Perry that Federal Power Act Section 202(c) can't support what he'd like to do on his lonesome to prove his fealty to Donald Trump and Trump acolytes like Murray.

Apparently, Perry is contemplating ignoring the lawyers after all, going ahead with destroying competitive markets and imposing a carbon tax on consumers.

Now you may be thinking: "Steve, the last thing the Trump administration would impose would be a carbon tax."

But, Kemosabe, this is not a tax on carbon; this is a tax for carbon. A new kind of carbon tax — *accelerating* climate change.

Of note, FPA Section 202(c) has three prerequisites: (1) emergencies, (2) shortages and (3) temporary situations.⁴

So Perry would need to prevaricate about all three.

It would be the energy equivalent of the Holy Roman Empire, which, as Voltaire quipped, wasn't holy, Roman or an empire.

FirstEnergy, the 2003 Blackout and the Davis-Besse Catastrophe

I have some space left and don't want to neglect the co-cheerleader for the Trump-Perry tax: FirstEnergy, the utility primarily responsible for the 2003 Northeast Blackout.



Huntoon

Yes, the same FirstEnergy that used the words "resilience," "resilient" and "resiliency" 2,031 times in its comments to FERC.

A prior column talked about how FirstEnergy's Sammis coal plant isn't baseload, nor retiring prematurely, no matter how many hundreds of times FirstEnergy abused the words "baseload" and "premature" in its FERC comments.

Today, let's talk about FirstEnergy's Davis-Besse nuclear plant. Another of the power plants that FirstEnergy wants bailed out yet again, after its plants first got billions in "stranded cost" payments and then got even more money to support FirstEnergy's credit rating.

Did you know Davis-Besse was down during the 2003 blackout that FirstEnergy caused? Yes it was.

And it was down for *two years*. So much for nuclear plant resiliency — 90 days fuel supply and all that poppycock.

Why was it down? Boric acid corrosion had eaten a cavity completely through a 6.63-inch-thick carbon steel reactor pressure vessel (RPV) head down to a 3/16-inch inner liner of stainless steel cladding, which miraculously held until the cavity was finally discovered. Had that last 3/16 of an inch been eaten away or collapsed before detection and shutdown, it could have been *really bad news*.



Davis-Besse corrosion | NRC

The corrosion had occurred over a number of years. As the Nuclear Regulatory Commission stated: "The licensee allowed accumulations of boric acid to remain on the RPV head even though Procedure NG-EN-00324 directed their removal."⁵

This became a poster child for nuclear negligence, and the basis for NRC fines of \$5.5 million⁶ and Securities and Exchange Commission fines of \$28 million.⁷

Here's where things get relevant for today. Repairs and replacement power cost hundreds of millions of dollars. How much of that was "capitalized," i.e., added to Davis-Besse's rate base upon which FirstEnergy now wants a return? I ballpark that at \$100 million based on the increase in total plant costs between the end of 2001 and end of 2004, relative to the increase for the Perry nuclear plant that didn't share the Davis-Besse experience.

This \$100 million is the tip of the iceberg. More recently, FirstEnergy spent another \$600 million on Davis-Besse.⁸

If that \$600 million had turned out to be a good investment, FirstEnergy would have kept mum and kept the money. But it hasn't turned out so good, so FirstEnergy wants customers to bail it out. Yet again.

Heads I win, tails you lose. Hugely.

Wrapping Up

Remember the Wisconsin utility executive who famously said the utility business is the only one where you can make more money from redecorating your office?⁹ If the Trump-Perry tax happens, we'll know a utility can make even more money from causing a near nuclear catastrophe, and making more bad investments after that.

Oh, and where to end? Roll Tide.

Steve Huntoon is a former president of the Energy Bar Association, with 35 years of experience advising and representing energy companies and institutions. He received a B.A. in economics and a J.D. from the University of Virginia. He is the principal in Energy Counsel, LLP, www.energy-counsel.com.

¹ <https://www.economist.com/news/united-states/21732571-fierce-competition-federal-governments-worst-policy>

² <https://www.eenews.net/greenwire/stories/1060068535/>

³ <http://www.washingtonexaminer.com/trump-ally-bob-murray-we-must-have-early-ferc-decision-on-coal-subsidies/article/2643005>

⁴ What the D.C. Circuit Court of Appeals has summarized as "temporary emergencies, epitomized by wartime disturbances." <https://openjurist.org/574/f2d/610/richmond-power-light-of-city-of-richmond-indiana-v-federal-energy-regulatory-commission>

⁵ <https://www.nrc.gov/reactors/operating/ops-experience/vessel-head-degradation/lessons-learned/lessons-learned-files/ltrf-rpt-ml022760172.pdf> (page 52)

⁶ <https://www.nrc.gov/docs/ML0511/ML051110336.pdf>

⁷ <http://www.toledoblade.com/local/2006/01/21/FirstEnergy-to-pay-28-million-fine-for-lying-Davis-Besse-s-punishment-largest-in-nuclear-industry.html>

⁸ "The majority of the remaining capital investments over the next several years will be focused on projects to extend the life of our nuclear assets with new steam generators at Davis-Besse this year and new steam generators and a reactor head at Beaver Valley Unit 2 in 2017," http://www.cleveland.com/business/index.ssf/2014/02/firstenergy_spending_600_milli.html; <http://investors.firstenergycorp.com/file/Index?KeyFile=21777558#gsc.tab=0>.

⁹ Oh yeah, he really said that: http://archive.fortune.com/magazines/fortune/fortune_archive/1995/11/13/207697/index.htm. And for a fine piece of investigative reporting on the regulated utility real world, check this out: https://www.postandcourier.com/news/power-failure-how-utilities-across-the-u-s-changed-the/article_434e8778-c880-11e7-9691-e7b11f5b3381.html.