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May 17, 2018

By Electronic Submission

The Honorable James Richard Perry  
Secretary of Energy  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

Secretary Perry:

This letter urges you to refrain from imposing any action under the Department of Energy's emergency authorities to provide economic support favoring a particular class of power plants, as urged by First Energy Solutions and its affiliates. It is submitted on behalf of the Independent Petroleum Association of America (IPAA), the American Exploration & Production Council (AXPC), the Association of Energy Service Companies (AESC), the International Association of Drilling Contractors (IADC), and the following organizations:

Colorado Oil & Gas Association  
Florida Independent Petroleum Association  
Kansas Independent Oil & Gas Association  
National Association of Royalty Owners  
Ohio Oil & Gas Association  
Oklahoma Independent Petroleum Association  
Oklahoma Oil and Gas Association  
Pennsylvania Independent Oil & Gas Association  
Texas Alliance of Energy Producers  
Texas Independent Producers and Royalty Owners Association

Collectively, these groups represent the thousands of independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts, that will be the most significantly affected by the actions resulting from this regulatory proposal. Independent producers drill about 90 percent of American oil and gas wells, produce 54 percent of American oil and produce 85 percent of American natural gas.

The signatories ("Independent Producers") support the letter submitted to you on May 7 by a group of natural gas, renewables, and power efficiency groups ("Industry Groups"), detailing the legal infirmities of taking action under Section 202(c) of the Federal Power Act (FPA), the Defense Production Act, and Section 215A of the FPA. As explained in the group's legal analysis:

"There is no emergency or threat to the national defense on which the Department could lawfully base the exercise of its emergency authorities."

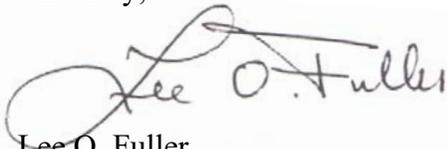
The Independent Producers have succeeded in dramatically increasing production of natural gas, bringing environmental benefits and lower electricity prices. These efforts should not be derailed by an attempt to forestall the retirement of older, uneconomic generators. With the focus on PJM, even PJM Interconnection, LLC, pointed out to the Secretary that the Department does not need to take “precipitous, immediate action” to address the corrective action requested by FirstEnergy Solutions and its affiliates. PJM stated unequivocally that “there is no immediate threat to system reliability,” in its March 30, 2017, letter.

As the Industry Groups stated, “FirstEnergy’s true problem is not that there is an emergency on the grip, but that its power plants lose money at current prices.”

The Federal Energy Regulatory Commission (“FERC”) continues to review how Independent System Operators (“ISOs”) and Regional Transmission Organizations (“RTOs”) manage reliability and resiliency. If changes in the pricing of power are necessary, organized markets can and are working with stakeholders, with the end product being a filing with FERC. Even without a FERC filing, independent system operators and regional transmission operators can find that certain units proposed for retirement are, in fact, necessary for system reliability and offer contracts to keep those plants on line. PJM has not made such a finding with respect to the FirstEnergy generators.

All energy sources have experienced cycles in production and/or demand. The decreased demand for coal and nuclear energy, particularly within PJM, is due in large part to the abundance of lower-cost natural gas and overall decreases in power demand. The Independent Producers urge the Secretary to focus the Department’s efforts on encouraging production and use of all fuels—a result that can only be achieved by rejecting calls to artificially inflate one source over another. FERC and the independent system operators can continue with their efforts to ensure the reliability and resiliency of our nation’s electric grid.

Sincerely,

A handwritten signature in black ink that reads "Lee O. Fuller". The signature is written in a cursive style with a large, looping initial "L".

Lee O. Fuller  
Executive Vice President  
Independent Petroleum Association of America

cc: Steven Winberg, Assistant Secretary for Fossil Energy

Shawn Bennett, Deputy Assistant Secretary for Oil and Natural Gas