**A** **CONCURRENT RESOLUTION**

TO MEMORIALIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION TO ADOPT POLICIES THAT PRESERVE ENVIRONMENTAL QUALITY UNDER THE CLEAN AIR ACT WHILE REFUSING TO IMPLEMENT A CLEAN POWER STATE IMPLEMENTATION PLAN.

Whereas, a reliable and affordable electricity supply is vital to the nation’s and each state’s economic growth, jobs, and the overall well‑being of its citizens; and

Whereas, under its sovereignty and the protections of the Tenth Amendment to the United States Constitution, each state has the sole authority to regulate as necessary to ensure a reliable and affordable supply of electricity for its citizens; and

Whereas, environmental regulations should be based on sound science and a transparent and comprehensive program that addresses environmental issues, the nation’s broader economic prosperity, and the long‑term energy affordability for citizens; and

Whereas, the regulation of retail electricity sales and local distribution of electricity is a sovereign state function that federal agencies have a legal obligation to respect and preserve; and

Whereas, on June 25, 2013, the President of the United States issued a memorandum to the Administrator of the U.S. Environmental Protection Agency (EPA) directing the EPA to develop guidelines to control greenhouse gas emissions from existing fossil fuel‑fired power plants under Section 111(d) of the federal Clean Air Act and to seek input from states; and

Whereas, on June 2, 2014, the EPA issued proposed guidelines limiting carbon dioxide emissions from existing fossil fuel‑fired power plants under Section 111(d) of the federal Clean Air Act and published them for comment in the Federal Register on June 16, 2014; and

Whereas, the EPA, under the Clean Air Act (CAA), claims authority to regulate greenhouse gases by utilizing Section 111(d) to regulate carbon dioxide performance standards for existing generating units when those plants are already regulated under Section 112’s air toxics program; and

Whereas, the EPA has admitted that its interpretation of the CAA conflicts with a literal reading of the law and acknowledged that this application of the CAA “would have been unrecognizable to the Congress that designed the governing statutory framework” and that this proposed rule will not measurably alter any impacts of climate change; and

Whereas, the Clean Air Act does not authorize EPA to mandate implementation of “outside of the fence” elements of a state’s clean power plan with respect to retirement or operation of coal‑fired electricity generating units, the reliance on generation of electricity from natural gas, the reliance on renewable energy sources, or the energy efficiency or demand management of end‑users, each of these exclusively within the police powers of the State; and

Whereas, the proposed guidelines are based on the EPA’s assessment of each state’s ability to improve the efficiency of coal‑fired electric generating units, retire or operate differently coal‑fired electric generating units, substantially increase the generation of electricity from natural gas, significantly increase reliance on renewable energy sources, and substantially reduce the use of electricity by consumers, all in a plan and on a schedule that is not achievable and workable; and

Whereas, the proposed guidelines and plan, by the EPA’s own estimates have a major impact on the economy of each state and significant consequences for how electricity is generated, transmitted, distributed, and used within the State and would effectively amount to a federal takeover of the electricity system of the United States; and

Whereas, in the face of legal uncertainty, it is prudent for the Department of Health and Environmental Control to examine the implications of preparing and implementing this rule, but we strongly urge that they do not prepare, draft, submit, or implement an implementation plan under this rule or otherwise expend funds to do so until the legality of a Clean Air Act Section 111(d) regulation for existing power plants has undergone judicial review and is fully resolved; and

Whereas, we strongly urge the South Carolina Public Service Commission to not allow electric generating units to be retired before their engineering lifetime if the unit is necessary to maintain the grid reliability specified by the Federal Energy Regulatory Commission in its reliability standards and urge that the Public Service Commission require that existing electric generating units be operated in accordance with their design parameters and in a manner as to ensure operation consonant with the initial design life of the unit at the time of its Public Service Commission approval; and

Whereas, in promoting affordable power for all South Carolinians, we strongly urge the Public Service Commission to condition decisions related to electricity generation and distribution on least‑cost proposals that comply with Clean Air Act regulations and the State Implementation Plan for which air quality criteria have been published or for which regulations have been promulgated under Section 112 of the Clean Air Act. We also strongly urge the Public Service Commission to cap nonfuel rates increase associated with greenhouse gas regulations at 1.5 percent and to not retire electric generating units to be retired prior to their engineering lifetime if the owners have not recouped the costs of construction and financing, the replacement generation results in lower costs to consumers, and there is sufficient replacement capacity to meet dispatchable capacity of the unit to be retired. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the members of the South Carolina General Assembly, by this resolution, respectfully memorialize the Department of Health and Environmental Control and the South Carolina Public Service Commission to adopt policies that preserve environmental quality under the Clean Air Act while refusing to implement a Clean Power State Implementation Plan.

Be it further resolved that a copy of this concurrent resolution be sent to the Director of the Department of Health and Environmental Control and the Director of the South Carolina Public Service Commission.

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