

EEC COMMENTS ON 111(b) and Understanding HB388

Presented by
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Kentucky Energy and Environment Cabinet
May 22, 2014

Today's Topics

- History of GHG litigation/rulemaking
- GHG regulation under the Clean Air Act
- EEC comments on GHG rule for new electric generating units (EGUs)
- Expected rulemaking for existing EGUs
- House Bill 388
- Conclusions

GHG Actions to Date

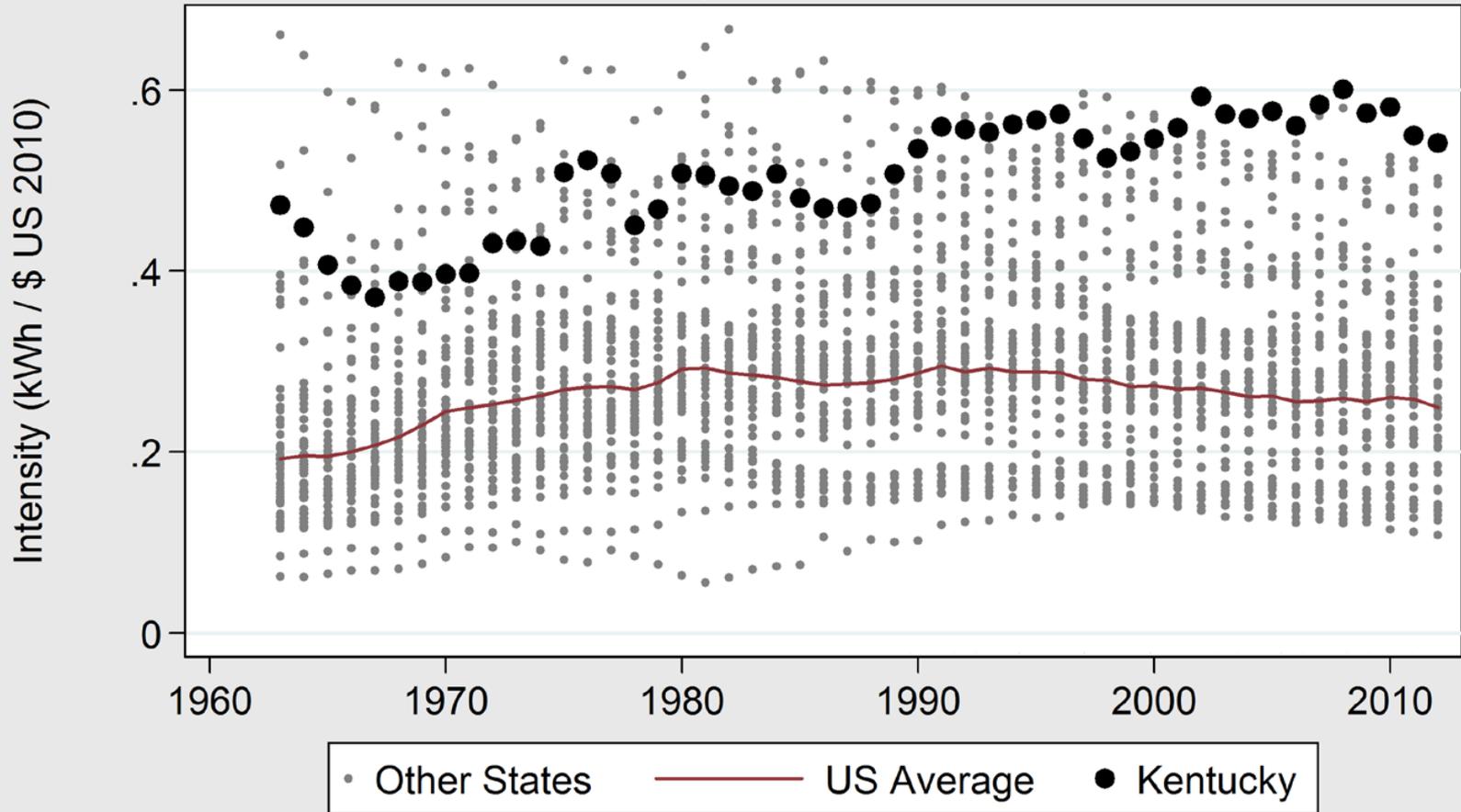
- 2007 Supreme Court Ruling – *Massachusetts vs. EPA*
- December 2009 - Endangerment Finding
- May 2010 - Light-Duty Vehicle Rule
- June 2010 – Tailoring Rule
- June 2012 – Court of Appeals for D.C. Circuit rejects petitioners claims and upholds all EPA actions
- February 2014 – Oral arguments on triggering of PSD requirements for stationary sources.

GHG Rulemaking under CAA 111

- Why Section 111, commonly known as New Source Performance Standards (NSPS)?
- Section 111, [42 U.S.C. §7411](#), of the Clean Air Act requires EPA to develop regulations for categories of sources which cause or significantly contribute to air pollution which may endanger public health or welfare.
- Trigger – New source category (86 existing) added to list or new pollutant designated
- Section 111(b) is for new and modified sources
- Section 111(d) is for existing sources
- EPA was sued compelling action under Section 111

Electricity Consumption per State GDP Dollar, 1963-2012

Kentucky vs. the United States



Kentucky Energy Database, EEC-DEDI, 2013
Data Source: EIA Forms 861 & 826 & BEA GDP by State

111(b) Comments

- ⦿ April 22, 2014 – Submitted to EPA docket
- ⦿ CCS is not adequately demonstrated on a commercial scale
- ⦿ Rule inappropriately sets energy policy
- ⦿ Emission standard for coal unreasonable – EEC recommends 1,700 lbsCO₂/MWh
- ⦿ Costs and economic impacts not properly considered
- ⦿ Rulemaking constitutes a significant energy action

CAA Section 111(d)

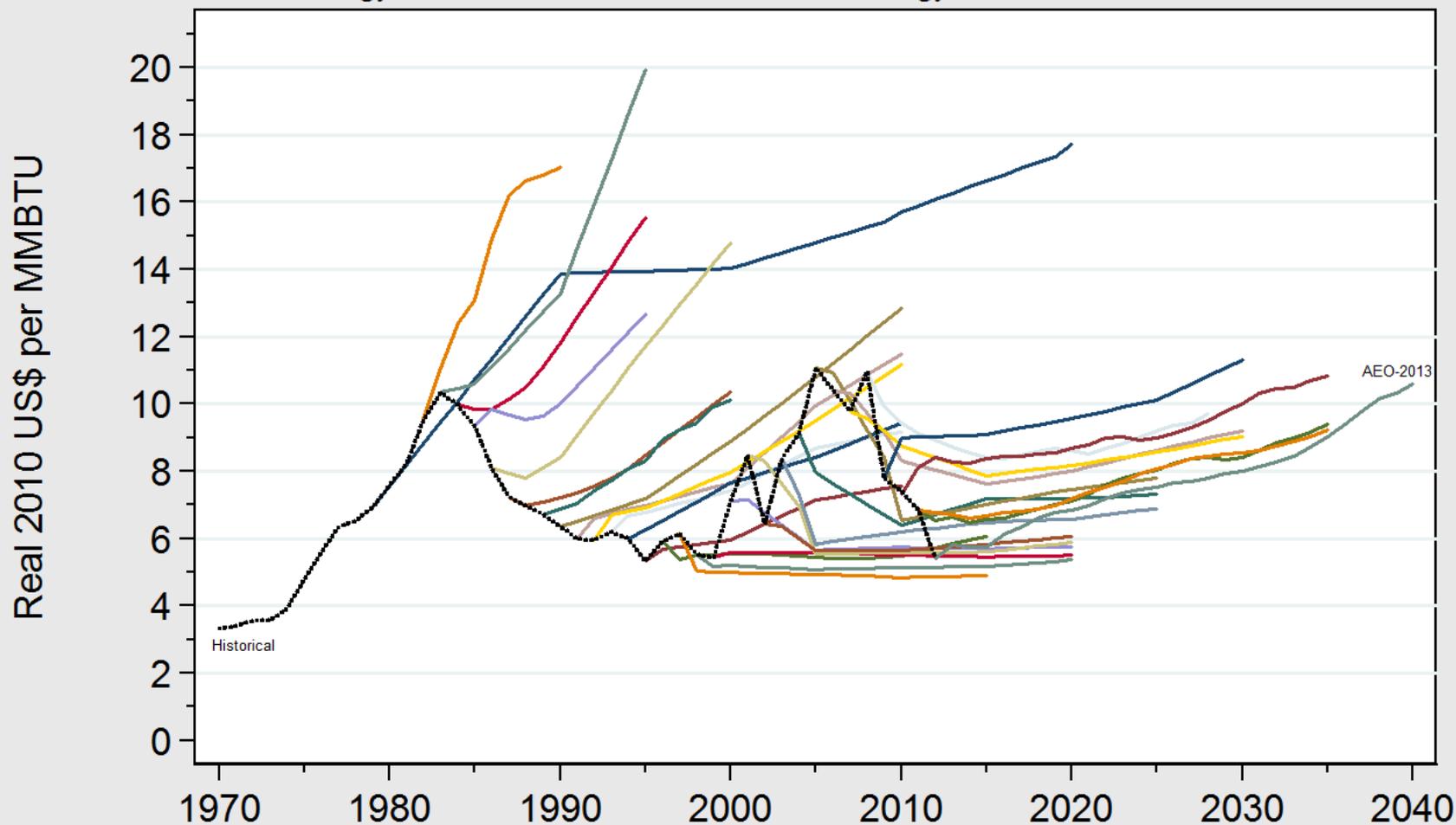
- Preceded by issuance of an NSPS under 111(b) for new sources
- Regulatory Mechanism – 40 CFR 60 Subpart B or Subpart C?
- Why Subpart B? – 60.22(d)(1) – Welfare pollutant
- EPA issues guideline document - flexibility
- States submit “SIP” like plan – QEP
- If state fails to submit or EPA disapproves, then EPA will issue a federal plan

Burning Questions

- ⦿ What are “meaningful carbon reductions”?
- ⦿ Will EPA set a reduction target expressed as an emission rate by unit and fuel type or something more broad?
- ⦿ Does the definition of stationary source allow a “beyond the fence line” approach?
- ⦿ What is Best System of Emission Reduction?
- ⦿ How will cost of reduction be calculated?
- ⦿ What is adequately demonstrated?
- ⦿ What is remaining useful life?

EIA Natural Gas Price Forecasts, 1979-2013

Energy Information Administration Annual Energy Outlook Forecasts vs. Actual



Kentucky Energy Database, EEC-DEDI, 2013

Data Sources: EIA-AEO 1979-2013 - Reference Case Delivered Price - All Sectors & BLS-CPI, 2013

HB388

- Enacted April 2, 2014
- National model legislation pushed by coal interest groups
- Unanimous support of both houses
- Full effect is unknown at this time
- Federal Implementation Plan possible if Kentucky cannot meet 111(d) plan guideline requirements

Conclusions

- ⦿ Regulation of GHGs has the potential to raise electricity prices in Kentucky significantly
- ⦿ CCS is not adequately demonstrated on a commercial scale
- ⦿ An “all of the above” energy strategy is crucial to economic vitality
- ⦿ Kentucky law could prevent EEC from being able to develop an approvable plan

Thank You

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