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Comment On: ONRR-2012-0004-0024
Consolidated Federal Oil and Gas and Federal and Indian Coal Valuation Reform

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General Comment

In its news release announcing release of the proposed federal regulation by the ONRR (Office of Natural Resources
Revenue), the Bureau of Land Management announced initiatives that will provide certainty, and additional clarity.
The only thing clearer or more certain to me is that costs for coal (and hence electricity) would go up as a result of this
proposal and the war on coal has opened another new front.

The proposed rule, a masterwork of inscrutability, would give ONRR greatly expanded discretion in divining valuations for
royalties in the form of a default valuation mechanism made even more onerous by making it much more difficult for the
coal producers to challenge or appeal an assessment of value. For an encore, the proposal embraces earlier (separate)
rulemaking amending Civil Penalty regulations which up the ante by potentiating ONRR authority to enforce the rule under
FOGRMA (Federal Oil and Gas Royalty Management Act) and adds the specter of additional civil penalties for misconduct
and gives the ONRR much broader purview to define misconduct, including, apparently, innocent clerical errors.

In general, my concern is this: while coal opponents keep harping about American taxpayers getting a fair return on its
governments mineral resources, this proposal actually exacerbates the perceived problem. Rather

than enhancing
revenue from royalties, taxpayers would ultimately be shortchanged with fewer revenues from royalties because federal
coal production would very likely fall or not be advanced in the mines. When all is said and done, the proposed rule, if
enacted, would actually cost the Federal and State government revenue.

The proposed rule introduces a new default provision that simply gives the ONRR too much discretion, dare I say,
creative license to value Federal and Indian coal royalties on a case by case basis and this further opens the door to out
of context proposals by environmentalists to add a cost premium to cover the perceived costs of climate change
implications which runs, in my mind, afoul of the genetic code of the Mineral Leasing Act (MLA) (as amended and
regulations thereto) which places the promotion and encouragement of the greatest ultimate recovery of Federal coal, the
taxpayers asset, first among equals. This is not the place to entertain punitive, business killing cost additions such as
carbon adders designed to stifle an industry based on what a quiet majority of Americans believe to be junk science. That
fight can ensue elsewhere, but should not in this rule-making. But the default provision in this proposal grants the Secretary
of the Interior and thereby the ONRR the discretion to consider any criteria it deems relevant -- oh the mischief that could
make.

My further criticism of the proposal relates to the provisions specific to coal cooperative non-arms length sales of coal to
members and, like any rule, regulation, or practice that leads to higher utility rates, those costs are simply passed onto
consumers and disproportionately harm lower income families and the elderly.

The system for valuing Federal coal for royalties isnt broken. It doesnt need fixing and this proposed fix will ultimately
hurt much more than it purports to help.

Another thought occurs to me -- as I indicated above, my suspicion that this is just another front on the war on coal. The
most visible/vocal critics of the existing federal coal leasing program and as well, the strongest proponents of the proposed
rule, all sport obvious anti-coal credentials:

Sierra Club
The Center for American Progress
Natural Resources Defense Council
Greenpeace

But heres the irony: limiting Powder River Basin (PRB) exports could well result in an additional unintended consequence

-- raising PRB coal prices pushes foreign importers of PRB coal to switch to coal from non-US PRB sources (Russia,
Indonesia, Australia, and Columbia) that are higher in sulfur, ash, mercury, and other criteria pollutants.

For the cooperative mines that I am familiar with, the proposal asks for divination of coal value using a net-back derived
from the price of electricity. Therein I see lots of opportunity for conflict and gaming the system; there are so many variables
and complications. Do you use normal cost of service concepts? What about those kWhs that go off-system in bi-lateral
deals? What about RTO constrained market uniform/single bid pricing constructs where the revenue derived can be another
step removed from the true incremental cost of the coal generated electricity? I would urge the ONRR to reconsider stepping
into this quagmire. Lets not forget the law of unintended consequences.

Thanks for the opportunity to comment.
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