TEXAS PUBLIC POLICY FOUNDATION
Testimony

April 7, 2011
Center for Energy & the Environment

Senate Bill 15: Relating to State Energy Policy and the Planning of Energy Development and Utilization

Before the Senate Natural Resources Committee

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The historical record and the basic laws of economics show that centrally planned energy policies—formulated at the federal or state level—distort the basic dynamics of market economies, of which Texas is a highly successful example. Markets—not mandates or policy preferences or strategic plans—offer the best path to a win-win outcome: affordable, reliable, and environmentally sound energy for all Texans. The creative, competitive, highly capital-intensive, volatile, technologically-driven, and high-risk energy sector of the Texas economy is particularly at odds with central planning.

TPPF believes the public's interest in energy is best served by allowing the free market to work as restrained by duly-enacted federal and state jurisdictional laws. The Texas energy sector, throughout its history and ever more now, plays a major role in the state and national economy not because federal or state officials planned what it should do but because innovative, risk-taking private entrepreneurs succeeded. Texas also has also outpaced most other states in air quality improvements, an achievement impossible without the profitability of the Texas energy sector.

A study, "Texas Energy and the Energy of Texas," recently issued by TPPF examines the role of energy production and use in our state economy. The study shows that Texas is now the leading industrial and manufacturing state in the nation as a result of access to abundant, affordable energy. In economic growth and environmental improvement, Texas has dramatically outpaced the rest of the nation over the last decade.

SB 15 as filed, and in the CSSB 15, would create an Energy Policy Council composed of agency officials, state legislators, and academics to develop a state energy plan for "the development, production, delivery, commercialization and utilization of energy" in Texas. This broad mission constitutes a major interference with the free market and with the highly successful Texas energy sector. The policy priorities stipulated for the energy plan, such as balanced energy, economic viability, environmental impact, and energy efficiency—construed as reduction in energy use—are better resolved by market economics, and through existing laws than through centralized planning by state policy-makers and academics.

The environmental emphasis in the bill, expressed through need for an air pollution reduction plan, and identification of the most polluting generating facilities (construed in the CSSB 15 as "the 10 percent of electric generation capacity most impacted by compliance with environmental regulation") is odd to me as a former Chairman of TCEQ. Federal and state laws already impose strict, extraordinarily complex regulation on electric generators. The industries alone know how to calculate the costs of regulatory compliance and make decisions about existing assets on the basis of the highly specific economics of their facilities. Much of this information is appropriately proprietary and legally protected.

There is no environmental crisis in Texas. Improvement in Texas air quality has outpaced most of the nation. The reduction of ozone levels in the Houston region to below the still binding 85 parts per billion federal standard is an achievement few thought possible. The emission limits for coal-fired power plants in Texas are nearly the strictest in the nation. Carefully gathered data shows that since 1970 the coal-fired power plant fleet in Texas has invested approximately $16 billion in emission control technology.

Assessment of environmental quality is best left in the hands of the jurisdictional agency charged with implementing environmental laws rather than with a multi-agency council more influenced driven by nebulous policy preferences about clean and green energy—preferences beyond existing regulation. Injecting new environmental factors into the activities of the Public Utility Commission is a step toward the re-regulation of the Texas electric market.

As *The Wall Street Journal* recently characterized it, EPA is on a regulatory spree unprecedented in U.S. history, without credible science to justify the plethora of new regulation. State

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efforts to challenge environmentally unjustified new EPA regulation may be a wiser step for Texas than a plan to facilitate compliance with EPA's overreaching regulation.

Many new or proposed EPA regulations bode impact on a scale never encountered in this country. The National Electric Reliability Council (NERC) concluded in a recent report that four EPA regulations would jeopardize electric reliability across the country. The NERC study finds that up to 77 gigawatts (GW) of generation capacity could be forced to retire by 2015 under the four rules analyzed. Three other studies concluded that up to 100 GW-100,000 MW could be shuttered. Perhaps a more strategic task for a state Energy Policy Council, to be established by CSSB 15, would be to assess the legal and scientific sufficiency of EPA's new rules rather than to assess those energy sources most impacted by whatever new dictate EPA tries to impose.

SB 15 and CSSB 15 are, in part, similar to legislation passed in Colorado last summer, legislation evidently intended to increase demand for now-plentiful natural gas by suppressing demand for coal. These policies directly, or indirectly, favoring one fuel source over another typically lead to unintended but foreseeable consequences such as higher prices for consumers. Such impacts are always regressive, most harshly impacting those with the least income. Less reliable, more expensive electricity in Texas jeopardizes the many energy intensive industries that have made Texas the industrial giant of the nation and the engine of U.S. job creation.

The great boom in the Texas oil and natural gas industry that was made possible by hydraulic fracturing is of great value to everyone in Texas. Lower natural gas prices, the prospect of less price volatility, and relatively lower costs for environmental compliance augur greater demand for natural gas. State energy policy should not manipulate the future energy market.

The best energy policy for Texas may be simply: "MORE." Texas will need every megawatt of electric generation and then many more new MW to meet future demand. According to the Electric Reliability Council of Texas, Texas needs a daunting, additional 18,000 MW of generation by 2020 to avoid a capacity shortfall. The nuclear disaster in Japan, justifiably or not, makes the 5,000 MW planned for Texas from nuclear generation far less certain. Financing, permitting, and construction of power plants take many years.

Indeed, Texas needs every MW we have. Texas should avoid any semblance of a policy that could result in the closure of well-performing generation assets that already meet environmental regulations, assets in which major investment resides and which retain many years of productive life.

When TPPF learned of the Colorado law, we asked an energy expert at the American Enterprise Institute, Dr. Steven Hayward, Ph.D., to conduct a study on the Texas energy sector and its role in the Texas economy. I have submitted copies of this study with my written testimony.

The conclusions of this study including the following:

- The best energy strategy is to enhance energy resilience through a diversified portfolio that emphasizes abundance, affordability and reliability.

- The best policy for achieving energy resilience is an open, adaptable marketplace for competing energy supplies and technologies, rather than mandates and patchwork subsidies that introduce artificial distortions and constraints into energy markets. The goal of the policy should be to make the entire "energy pie" bigger.

- To adapt another popular slogan, the best advice for Texas policymakers is: "Don't Mess with Texas Energy." Texas should not do to the energy sector what it would not do to any other sector of its economy. Tilting the marketplace almost always leads to bad outcomes. In the energy sector, adopting policies favoring some sources over others will reduce the reliability and resilience of the energy market. ✯