



Broward County

Legislation Details (With Text)

File #: 21-050 **Version:** 1

Status: Agenda Ready

In control: County Commission

On agenda: 1/12/2021 **Final action:** 1/12/2021

Title: MOTION TO AUTHORIZE Office of the County Attorney to 1) join in a Petition for Review being filed in the District of Columbia Circuit Court of a final rule of the United States Environmental Protection Agency ("EPA") affecting greenhouse gas emission ("GHG") regulation from coal-fired power plants; and 2) authorize the County Attorney to execute any necessary Common Interest Agreement for confidential legal coordination with other Petitioners' attorneys regarding the litigation. (Mayor Geller)

Sponsors:

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Attachments:

Date	Ver.	Action By	Action	Result
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Broward County Commission Regular Meeting

Director's Name: Steve Geller
Department: County Commission

Information

Requested Action

MOTION TO AUTHORIZE Office of the County Attorney to 1) join in a Petition for Review being filed in the District of Columbia Circuit Court of a final rule of the United States Environmental Protection Agency ("EPA") affecting greenhouse gas emission ("GHG") regulation from coal-fired power plants; and 2) authorize the County Attorney to execute any necessary Common Interest Agreement for confidential legal coordination with other Petitioners' attorneys regarding the litigation. (Mayor Geller)

Why Action is Necessary

Board approval is necessary to authorize the County to join litigation and enter into agreements.

What Action Accomplishes

Authorizes the Office of the County Attorney to join litigation on behalf of Broward County and execute an agreement allowing for confidential legal coordination with other Petitioners' attorneys.

Is this Action Goal Related

No

Previous Action Taken

Summary Explanation/Background

In 2015, the EPA issued a New Source Performance Standard ("NSPS") limiting GHG emissions from new coal-fired plants and a different standard for GHG emissions from new gas-fired plants. New coal-fired plants would almost certainly have to install a cutting-edge emission control technology called Carbon Capture and Sequestration, which removes carbon dioxide from emissions and stores it underground. Additionally, the establishment of GHG standards for new power plants would require EPA to apply those standards to existing coal fired power plants if they are modified or reconstructed. The 2015 NSPS underlies both the 2015 Clean Power Plan and the weaker 2019 Affordable Clean Energy rule that replaced it.

In December 2018, EPA formally proposed an administrative rule weakening the 2015 NSPS. In March 2019, a coalition of 19 states and eight local governments submitted comments objecting to the proposed rule, which the EPA is expected to advance as a final rule within the next week. The final NSPS rule would allow higher GHG emissions, and new, modified, and reconstructed coal fired plants would not need to use Carbon Capture and Sequestration.

Broward County participated in defending the 2015 Clean Power Plan from an industry challenge until it was replaced with the Affordable Clean Energy rule in 2019, and the County has a new opportunity to participate in challenging the weakening of the NSPS rule by joining in the Petition for Review, which seeks a court order that the rule is unlawful and must be vacated.

This is presented as a supplemental item as the request to join this litigation was received on January 11, 2021, and we have learned that EPA is expected to finalize this rule within the next week, necessitating action prior to the January 26, 2021, meeting of the Board of County Commissioners.

Source of Additional Information

Fiscal Impact

Fiscal Impact/Cost Summary

Due to the work of other expected Petitioners and prior staff comments on the Clean Power Plan, the fiscal impact of Broward County's participation in this litigation is expected to be less than \$5,000.