

WORK SESSION MINUTES – WEDNESDAY, NOVEMBER 20, 2024

STATE OF KANSAS)
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CITY OF KANSAS CITY)

The Board of Public Utilities of Kansas City, Kansas (aka BPU, We, Us, Our) met in Work Session on Wednesday, November 20, 2024 at 5:00 PM. The following Board Members were present: Thomas Groneman, President; David Haley, Vice President; Stevie A. Wakes Sr., Secretary; Mary Gonzales and Brett Parkier. Rose Mulvany Henry attended via Zoom.

Also present: William Johnson, General Manager; Angela Lawson, Acting Chief Counsel; Lori Austin, Chief Financial Officer; Jeremy Ash, Chief Operating Officer; Abbey Frye, Chief Administrative Officer; Leigh Mulholland, Chief Compliance Officer; Andrew Coffelt, NERC Compliance Officer; Ingrid Setzler, Director Environmental Services; Gabriela Freeman, Supervisor Customer Services; and Robert Kamp, IT Project Manager.

A video of this meeting is on file at the Board of Public Utilities and can be found on the BPU website, www.bpu.com.

Mr. Groneman called the meeting to order at 5:00 PM.

Roll call was taken and all Board members were present.

Item #3 –Approval of Agenda

A motion was made to approve the amended Agenda, by Ms. Gonzales, seconded by Mr. Parker, and unanimously carried.

Item #4 – Board Update/GM Update

There were no updates.

Item #5 – Corporate Compliance Update

Ms. Leigh Mulholland, Chief Compliance Officer; Mr. Andrew Coffelt, NERC Compliance Officer; and Ms. Ingrid Setzler, Director Environmental Services, provided a Corporate Compliance update that included: the North American Electric Reliability (NERC) Standards, potential environmental policy changes under the new Presidential Administration, and preparation for the 2025 Internal Audit. (See attached PowerPoint.)

Mr. Coffelt, Ms. Setzler, Ms. Mulholland, and Mr. Johnson responded to questions and comments from the Board.

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Item #6 – Customer Service Fee & Deposit Schedule Clarification

Ms. Abbey Frye, Chief Administrative Officer, reviewed the formatting and verbiage updates that were made to the Customer Service Adopted Fee and Deposit Schedule with the Board. She said there would be a resolution presented in the Regular Session to request approval of the revisions.

Item #7 – Adjourn

A motion was made to adjourn the Work Session at 6:02 PM, by Mr. Parker, seconded by Mr. Wakes, and unanimously carried.

ATTEST:



Secretary

APPROVED:



President

Corporate Compliance Division

Regulatory, Compliance, & Internal Audit Update

November 20, 2024

- North American Electric Reliability (NERC) Standards
 - Department Overview
 - 2025 Midwest Reliability Organization (MRO) Audit
 - Winter Preparedness
 - Future Standards
- 2024 Election Results & Environmental Update
 - Outlook - Environmental Policy Under Trump
 - Environmental Enforcement
- 2025 Draft Internal Audit Plan

NERC Department Update

AJ Coffelt, NERC Compliance Officer

November 20, 2024

NERC Department Overview

- NERC Department Purpose
 - Oversight of the NERC Standards including CIP and O&P
 - Provide guidance and updates regarding Industry and Regional Entity best practices and expectations
 - Assurance Monitoring and Auditing
 - Review and validate compliance with the NERC Standards
 - Assist in developing and implementing process improvements and efficiencies
 - Point of Contact for Regional Entity (MRO) & SPP Market Monitoring Unit (MMU)
 - Drives audit, self-certification, and spot check activities when required by MRO.
 - Acts as compliance contact for all requests regarding compliance with SPP Tariff and Market Monitoring Rules

2025 NERC Audit

- Upcoming NERC Audit in 2025
 - Audit Timeframe: February 17 - March 14, 2025.
 - Audit consists of 3 week offsite evidence review and interviews (February 17 - March 7, 2025) & then on-site visit (March 10 - 14, 2025)
 - *as of now, MRO does not plan to perform an on-site visit, but this can change.
 - Monitoring Period: November 9, 2021 - October 18, 2024.
 - Audit Scope - NEXT SLIDE

- CIP-004-7 (all)
 - Cyber Security Awareness and Training; Personnel Risk Assessments; Access Authorization, Provisioning, and Revocation
- CIP-011-3 R1, R2
 - Information Protection Program (Classification, protection & handling, disposal, reuse)
- EOP-008-2 R7, R8
 - Backup Control Center functionality and testing
- EOP-012-2 R1, R4; EOP-011-4 R1
 - Extreme (cold) weather preparedness plans for Generation and Transmission
- PRC-023-6 R1
 - Relay Setting requirements
- TOP-010-1 R1; TOP-003-5 R1
 - Quality Assessment of Real-time data and data requirements for the RC

Past Successes

- EOP-012-2 Cold Weather Preparedness (Generation)
 - Effective Oct. 1 2024
 - Requires all BES Generation to have a cold weather preparedness plan
 - Requires Cold Weather data to be collected for all BES Generation and communicated to the Reliability Coordinator
 - Requires identifying all Critical Cold Weather components and implementing cold weather activities to prep for cold weather
 - Requires identification of the Extreme Cold Temp for our area (-4 degrees).
 - Requires BES Generation to be able to generate above this temperature
 - Requires any BES generator that experiences a Cold Weather Event to develop a Corrective Action Plan to address event
 - Requires declaration of Generator constraints (none for BPU)

Past Successes

- EOP-012-2 Cold Weather Preparedness (Generation)
 - As a result of developing and implementing the EOP-012-2 plan, BPU had completed the following
 - Heat trace and insulation of CT4 fuel line to combat fuel gelling issues which could affect generator availability and output
 - Installed recirculation pump in CT4 fuel line to combat fuel gelling issues which could affect generator availability and output
 - Updated Coal Handling procedures to address coal clumping issues that could result in damage to equipment
 - Implemented heat trace and insulation throughout the generators to heat areas and lines that are susceptible to freezing which could result in unavailability or derates to the generation

Past Successes

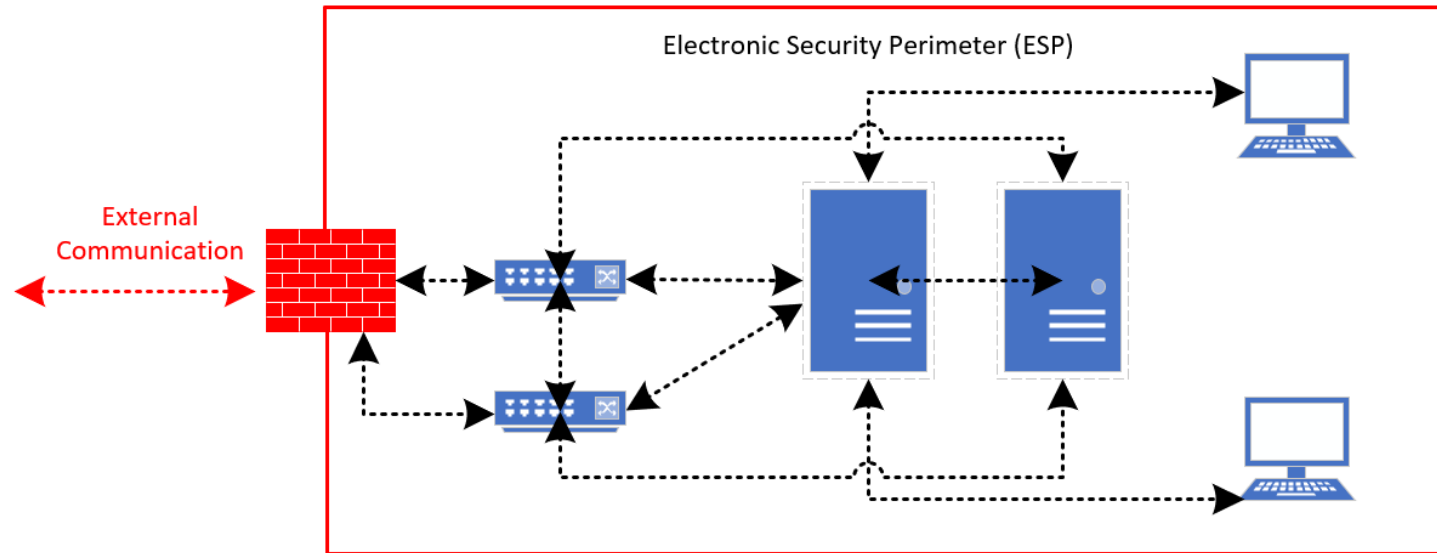
- Participated in MRO's Generation Winterization Program focusing on operational preparedness (not compliance)
 - Voluntary program sponsored by MRO
 - Perform a site visit
 - Review all documentation for Cold Weather Preparedness
 - Walk through the site to review the cold weather preparedness activities
 - Interview the SMEs regarding the Cold Weather prep
 - Develop Report
 - Recommendations
 - Best Practices
 - Positive Observations
 - BPU's final report gave high marks to the program and considers it "moderately high effectiveness".

Future Standards

- CIP-015-1 Internal Network Security Monitoring (INSM)
 - The NERC Board of Trustees adopted the proposed Reliability Standard on May 9, 2024.
 - On 09/19/2024 FERC announced a [Notice of Proposed Rulemaking](#) (NOPR) that says they intend to approve CIP-015-1.
 - FERC also announced there will be a two-month comment period before they are ready to issue their order approving the standard.
 - Expect effective date in 2026

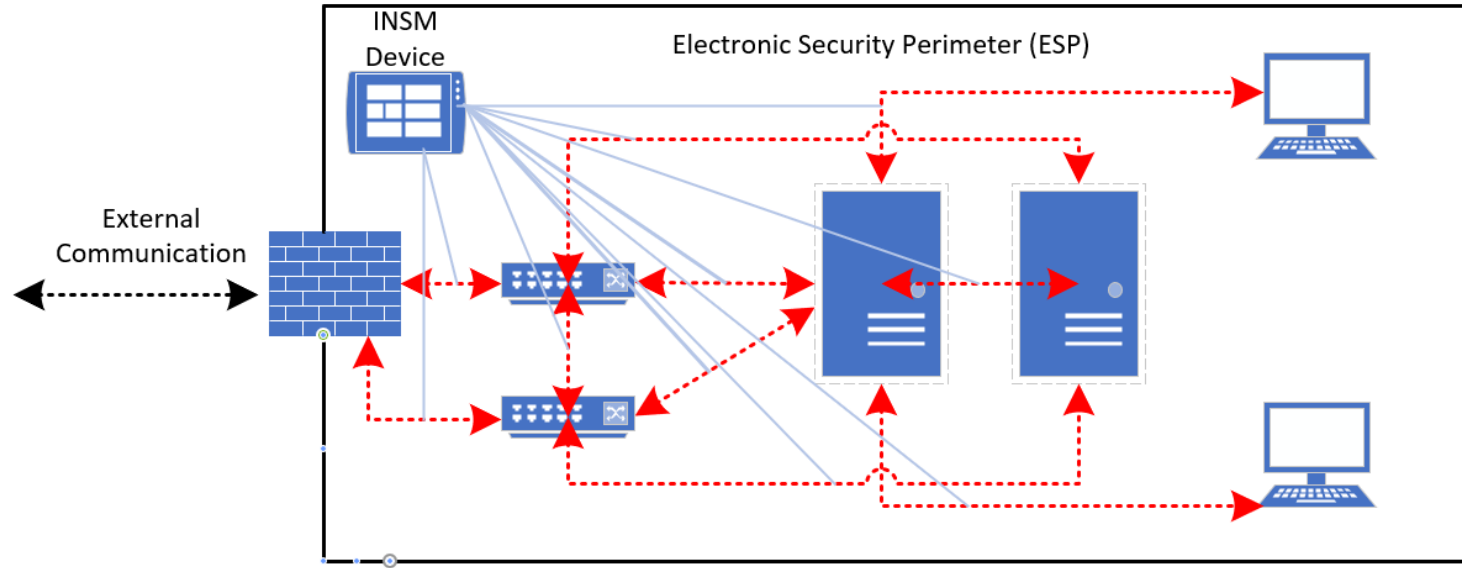
What Is INSM?

Current CIP Standards focus on communication coming into the established ESP.
Restriction and monitoring of communication at the edge of the ESP.



What Is INSM?

INSM focuses on monitoring communication between devices within the ESP. Set baseline network traffic, monitor activity, and be able to identify anomalous data



What is BPU doing to Prepare for INSM?

- BPU has been awarded a grant by the Department of Energy (DOE) and the American Public Power Association (APPA) to cover the majority of costs for INSM implementation.
 - Grant is for public power entities to increase cyber security practices that are not required by regulatory standards.
- Covers hardware, training, installation, and two years of support.
- BPU responsible for 7 percent of the costs which will be attributed to man hours or other items necessary for the project.
 - The approximate costs for the project 300k
- BPU has project scoped and hardware list completed.

QUESTIONS?

2024 Election: Environmental Update

Ingrid Setzler, Director Environmental Compliance

Presented November 20, 2024

Changing Course: Tools for a New Administration

Executive Orders

Reg Freeze and
Pull Back Rules*

Set New Policies
and Priorities
(Agenda47)

Manage Court
Dockets

APA Section 705
and Other Stay
Tools

Remand with vs.
without Vacatur

Review,
Reconsider &
Rollback Rules

Petitions for
Rulemaking

1st new
administration
under *Loper Bright*



2024 Election – Environmental & Policy Possibilities Under Trump

- **Executive Orders** – Administration will likely “freeze” Rules currently being worked on, and these can be pulled back
- **Agenda 47** –
 - Leave the Paris Climate Accord
 - Clean Air Act (CAA) – 90-day Stay, review and reconsideration. Remand with or without vacatur
 - Massive scale-up of oil & gas production
 - More nuclear & hydro (US government under Biden recently announced to deploy 200 gigawatts of net nuclear capacity by 2050, tripling US nuclear energy capacity based on 2020 numbers)
- **Congressional Review Act (CRA)** - 60 legislative days after Rule is passed
 - Congress can roll back any regulation/rules submitted to the House or Senate on or after August 1, 2024
 - Regulations not covered under the CRA that impact KCBPU include:
 - Coal Combustion Residuals (CCR) Legacy Rule
 - New Source Performance Standards and Emission Guidelines for Greenhouse Gas Emissions (GHG)
 - Regional Haze
 - PM_{2.5} National Ambient Air Quality Standards (NAAQS) for fine particle pollution
 - Cross State Air Pollution Rule (CSAPR) Good Neighbor Plan (GNP)

Trump Selects EPA Administrator

- Trump stated on 11/11/2024 that he will appoint Republican former Congressman Lee Zeldin to run the Environmental Protection Agency (Administrator)
- Zeldin will have to be approved by the Senate, which regained the Republican majority
- Republican former Congressman Lee Zeldin frequently voted against legislation on green issues
- Trump also stated he will reverse many rules administered by the EPA including carbon emissions from power plants
- According to the League of Conservative Voters, Zeldin, during his eight years in Congress, cast "yes" votes on key pieces of environmental legislation just 14% of the time
- Trump posted on his social media that Zeldin
 - “will ensure fair and swift deregulatory decisions that will be enacted in a way to unleash the power of American businesses, while at the same time maintaining the highest environmental standards, including the cleanest air and water on the planet”

Priority Environmental Regulations in Focus

- **Regional Haze- TBD**
 - The Regional Haze Rule established requirements for states to develop State Implementation Plans (SIPs) for regional haze, to improve visibility in 156 national parks and wilderness areas
 - On January 2, 2024, EPA issued formal proposal to disapprove Kansas's SIP, final disapproval August 7, 2024
- **PM2.5 NAAQS – potential voluntary remand, and EPA reconsiders, re-review due next year**
 - EPA is proposing to revise the level of the primary (health-based) **annual** PM2.5 standard from **12.0** micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to a level within the range of **9.0 $\mu\text{g}/\text{m}^3$** , based on scientific evidence that shows the current standard does not protect public health with an adequate margin of safety, as required by the Clean Air Act (CAA)
 - Area designations – may be more flexible treatments
 - Implementation (i.e. offsets)
- **Coal Combustion Legacy Rule – has been challenged, could be remanded**
 - Effective date of rule is Nov 8, 2024
 - EPA issued Direct-Final Rule, 11/8/2024, to clarify effective date of CCR Legacy Rule and correcting original 2015 Rule



Priority Environmental Regulations in Focus

- **New Source Performance Standards and Emission Guidelines for Greenhouse Gas Emissions (GHG) – Trump admin. could hold in abeyance, or remand while evaluation & development of new rule, or EPA voluntary remand**
 - April 25, 2024, EPA (F.R. 5/9/2024) issued the final carbon pollution standards (GHG Rule) for coal-fired and oil/gas-fired steam electric generating units
 - Rule addresses climate pollution from existing coal-fired power plants and new combustion turbines (new CT's, commenced construction after May 23, 2023)
 - Repeals the ACE Rule – Trump Era
 - Rule Published in Federal Register on May 23, 2023
 - Final Rule May 9, 2024
 - **State plans are due May 9, 2026**
- **Cross State Air Pollution Rule (CSAPR) Good Neighbor Plan (GNP) – potential reclassifications, contingency measures**
 - Interstate transport” describes how a State does, or does not, interfere with another States maintenance of the NAAQS and appropriate actions to ensure no impacts or how to remediate against impact
 - Facilities are “budgeted” for specific pollutants including an annual NOx, ozone season NOx, and annual SO2 allowances that equate to the allowance of 1 ton of emissions.
 - The “Good Neighbor Plan” (GNP) is a recent update to the CSAPR NOx and SO2 Trading program.
 - GNP contains many more restrictions for certain states and requirements related to the NOx Ozone Season budget



Priority Environmental Regulations in Focus

- **Cross State Air Pollution Rule (CSAPR) Good Neighbor Plan (GNP)**
 - **EPA disapproval of State Implementation Plans (SIPs) and promulgation of the Good Neighbor Plan (KS still implicated)**
 - **Supreme Court – Ohio vs. EPA**
 - **Federal Implementation Plans (FIPs) are fractured**
 - **Stayed pending review – EPA failed to adequately explain how the GNP would operate with fewer than 23 states involved**
- **D.C. Circuit granted EPA a limited remand to further explain**
 - **EPA to complete remand by end of November 2024 (likely Biden trying to get this pushed through)**
- **Next Steps**
 - **Oral Argument in early 2025**
 - **With new Administration, potential withdrawal of GNP and SIP disapprovals**



Priority Environmental Regulations in Focus

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Supreme Court Cases & Effects

Loper Bright

- **Overtuning Chevron deference (June 28, 2024) longstanding legal doctrine that that required deference to permissible agency interpretations of statutes the agencies administer**
- **It required a two-step process when courts evaluate agency rules:**
 - **Determine whether Congress directly spoke to the precise question at issue; and**
 - **If not (i.e., if the statute is silent or ambiguous on the specific issue), defer to the agency's interpretation of the statute if it is based on permissible construction of the statute.**

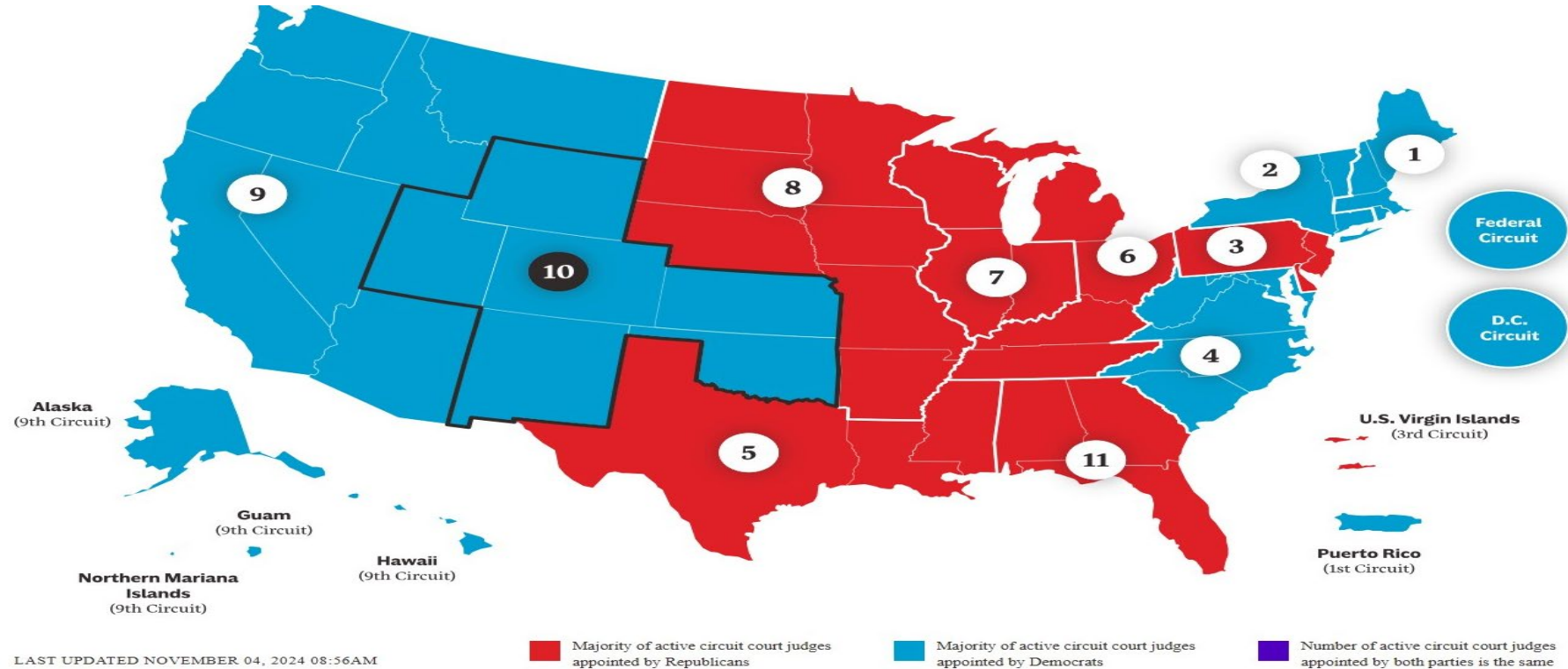
This principle has afforded agencies wide deference over the years, though in recent years it has been called into question.

Specifically, the Court determined that the Administrative Procedures Act which requires courts to use their independent judgment in deciding whether an agency has acted within its statutory authority, and should not defer to an agency's interpretation in the event a statute is ambiguous.

***Loper* represents the Court's most significant decision for environmental and energy regulation this term. We expect the Court's decision to significantly impact this administration's regulatory agenda as well as sway the decisions of various courts in pending litigation in favor of industry.**

Venues for Litigation

- **Venue for litigation:** D.C. Circuit 64% of circuit judges nominated by democratic president. Federal Circuit 66.7% nominated by democratic presidents



Inflation Reduction Act (IRA)

- Will Trump Repeal the IRA?
- Majority of funding has already been awarded ~75%
- Unspent funds
 - USDA
 - Environmental Quality Incentives Program
 - Regional Conservation Partnership Program
 - Conservation Stewardship Program
 - Rural Energy for America Program
- Other
 - Grants to reduce air pollution at Ports
 - Environmental and Climate Justice Block Grants
- Oversight

Inflation Reduction Act (IRA)

Inflation Reduction Act

- 45Q- May increase under Trump
 - Utilization
 - But Class VI permits, permitting reform
- 45V
 - Environmental "safeguards"
- 45Z
 - Guidance
 - Extending the credit

DOE Loan Program Office

- Oversight

Renewable Fuel Standard

- Litigation
- Next "set" rule
- Federal LCFS?

Priority Regulations

Regulatory Areas Poised to Shape Energy Growth

- Greenhouse gas standards of performance for new gas-fired and existing coal-fired electric generation.
- Greenhouse gas standards for new upstream oil and gas facilities.
- Greenhouse gas modeling and monitoring and reporting methodologies.
- Waste disposal requirements, or lack thereof.
- Infrastructure permitting tools, such as nationwide permits.

Pressures likely to Remain Constant

- Civil litigation focused on environmental or climate concerns.
- Permit challenges.
- State energy preferences, such as clean energy standards and low carbon fuel standards
- Resiliency needs.

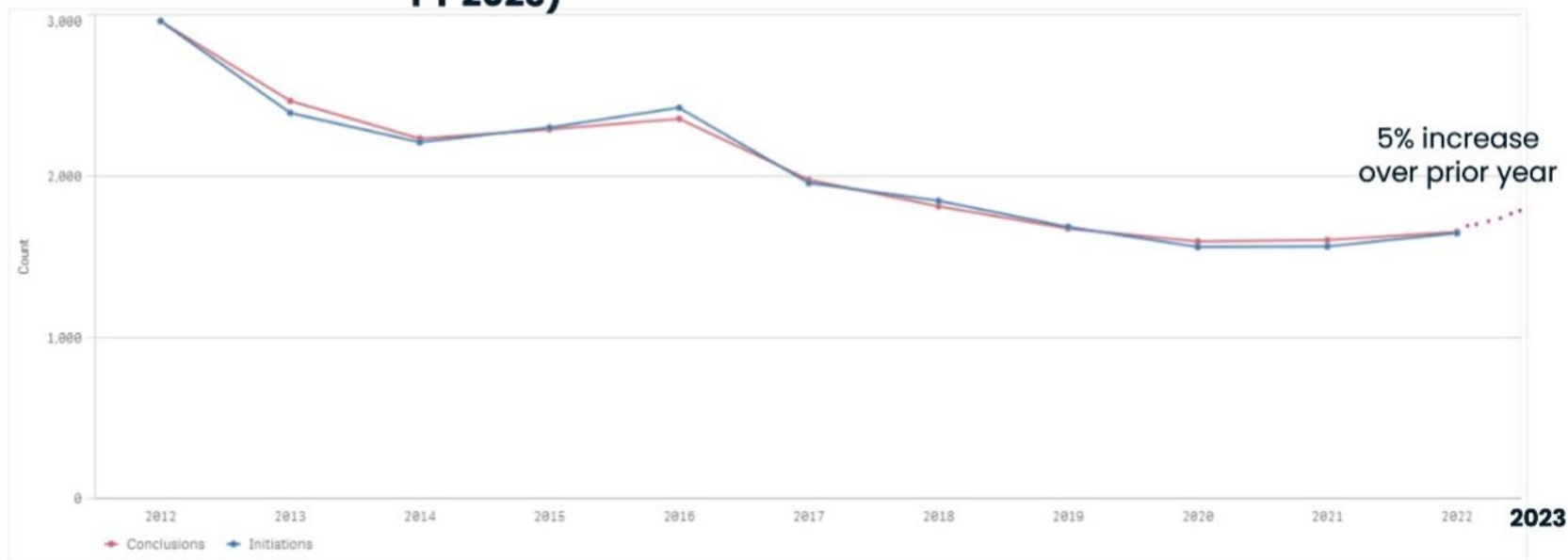
Environmental Enforcement

- **Cooperative Federalism**
- **Impartial Rule of Law**
- **Pragmatic Enforcement**
- **Narrower Use of Consent Decrees**
 - **Reform Citizen Suits**

- **Trump Priorities:**
 - **Back to basics**
 - **National compliance initiatives**
 - **Compliance integrity**
 - **Fighting fraud**
 - **Protecting America's workers – Risk Management Plan to likely stay in place**

Environmental Enforcement: Recent Trends

Total Civil Enforcement Case Initiations and Conclusions (FY 2012 – FY 2023)



1. Totals include Initiations and Conclusions of regulatory cases as well as CERCLA cases.

QUESTIONS?

2025 Internal Audit Plan

Leigh Mulholland, Chief Compliance Officer

November 20, 2024

2025 Internal Audit Plan

- Q4 - Process to Develop Internal Audit Plan
 - Audit Firm - Rubin Brown
- Internal Audit Strategy
 - 6 internal audits in 2025
 - Fraud controls will be a component of each IA project
 - Preliminary scope has been reviewed: final scope will be determined during planning process for each IA project
- Report Out & Follow Up

2025 Internal Audit Plan

- Customer Service
 - Billing & Collections
 - Data Integrity / Privacy
- Operations
 - Power Purchasing & Forecasting
 - Capital Planning Process
- Corporate Compliance
 - Environmental Compliance & Monitoring
- Finance
 - Accounts Payable & Expense Reports

2025 RFP - Internal Audit Services

- 2025 RFP
 - An RFP will be posted in Q2 to pick a new firm for the 3-year plan ending 2028

QUESTIONS?