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CLEAN AIR ACT AND COAL CONVERSION

Joseph W. Mullan*

We in the coal industry have some slightly different views on the conversion bill and on conversion to coal. I would like first to address the Clean Air Act.¹ My real problem with the conversion issue, at least as the present administration is handling it, is that while Mr. Carter favors coal his recent legislative efforts seem directed at not letting us mine it or burn it. I am not exactly sure what he intends for us to do with it.

The National Coal Association's position and the position of the coal industry has been to oppose the coal conversion legislation. I realize that that is a bit startling, when the conversion of all these plants to coal would seem to be a very positive step to get people back to coal. In fact, not very many plants have been converted. In 1973, when the Arab embargo came along, the Federal Energy Office coerced thirteen east coast plants into converting to coal from oil. When the Arab embargo was over, the Environmental Protection Agency (EPA) entered the scene and left only one plant burning coal. That plant is still burning coal, and it was claimed not too long ago by the Federal Energy Administration (FEA) as being one that they had converted. It came as a surprise to the president of the company, because the company had been burning coal since 1972. There was an interesting aspect, though. Because the company was charged with converting, it was free from the Clean Air Act temporarily. So there are some pluses.

We oppose that conversion bill because we feel that conversion is taking place without federal edict. In fact, we find the voluminous regulations to be a deterrent to converting. By the time we are allowed to mine the coal, and there is shown to be adequate transportation for

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1. 42 U.S.C. §§ 7401-7642 (1976).

it, and it is shown to be safe to burn it, the incentives to convert are few. In fact, my suggestion to an engineering forum in Atlanta several weeks ago was that, if they wanted to convert, they go out and buy all the control equipment they could and not tell anyone. If they do not want to convert, just hire a pretty good law firm, and under all those regulations they can find a way that they will not have to convert at all. We can have the conversion program in this country without the aid of the federal government or Congress.

There are provisions that would allow plants not to convert if they are of a certain age or a certain size. My background is engineering; it is design and construction of power plants. I see very little good to be accomplished, from an energy standpoint, of converting a boiler that is ten or fifteen years old, designed for oil and gas, to make it burn coal. By the time you are finished, you have downgraded the output of the plant; the plant is inefficient when you try to burn coal in it. A much better way to go would be to exhaust the useful life of that plant and start building new coal-fired power plants.

Of course, with the Clean Air Act a problem comes up when we start designing new coal-fired power plants. Under the new Clean Air Act of 1977,² the new constructor faces some words that he was not familiar with, words like "non-attainment" and "non-deterioration". For those of you not familiar with them, non-attainment means areas which are dirtier than the national standards and non-deterioration means areas that are cleaner than the national standards. If you look at the regulations, you will find that you are allowed to expand such a very limited amount in non-deterioration areas that it is uncertain whether you can build at all in non-deterioration areas. It is certain you cannot build in non-attainment areas. I am not sure where we are going to build—maybe offshore. I do not think we can build out there either because of other legislation that is pending.

The non-attainment provision, of course, goes a step further. The only way I can describe it is as sort of a trade-off proposal. If you want to build a new plant in a particular area, you go find something there that is dirty and tear it down. Hopefully it is yours and you can. Otherwise, you have to go out and buy somebody else's plant and tear it down so that you can build a new facility. In the non-deterioration area, about the only thing left to do is build it small and build a whole

2. Act of Aug. 7, Pub. L. No. 95-95, 91 Stat. 697 (1977); Act of Nov. 16, 1977 Pub. L. No. 95-190, 91 Stat. 1399 (1977).

lot of them all over the place. But I do not think that is a very practical solution from an air pollution standpoint.

I mentioned that the plants converting had a little bit more time, and they do. Plants converting under the bill do not have to meet applicable standards until December of 1980. That means that some of those older plants might not have to go to the very stringent limitations immediately. In fact, under certain conditions, they have a home-free provision through December of 1985. The key in that is the word "conversion." If the plant was burning oil and gas, and that actual boiler was converted to coal, it does get the benefit of that provision. But if the plant decides to just simply build a new coal-fired power plant, they have to meet the standards immediately.

One of the key questions that will be asked is whether everybody will have to use scrubbers? If you read the Clean Air Act, and it is a document about a half inch thick, you will not find anywhere in it that says you have to use scrubbers. In fact, it mentions specifically that you cannot get credit for stack height, minimal credit two and a half times the surrounding area. You cannot use intermittent control techniques, which would mean backing down on the plant where you have periods of high pollution levels. In fact, it stipulates that the new plant shall come under something called "new source performance standards." If I can take just a second of your time, I will quote from that provision of the Act. We have a column in the Washington Star that is entitled "Gobbledygook" and if it sounds a little confusing here, I think I will give it to them some day. It says that that standard of performance shall:

[R]eflect a degree of emission limitation and the percentage reduction achievable through application of the best technological system of continuous emission reduction which (taking into account the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated³

That is the long way to say, "Scrubbers, yes." Call it anything else that you want. In fact, it goes on a little bit further. For those of you who were not confused completely, the next paragraph deals with things like, "if the Administrator determines that it is not feasible to describe a standard of performance, he may promulgate a design criteria, (which has a new title) best technological system of continuous emis-

3. Act of Aug. 7, 1977, Pub. L. No. 95-95, § 109 (a)(1)(C), 91 Stat. 697 (1977).

sion reduction." That is getting very close to the word "scrubber" but he still does not mention the word itself.

When you look at what has happened since the bill has been passed and the EPA started to work on these standards, you realize that no matter what they call it, best technology or anything else, it is scrubbers. They were given the charge of two things. One, they had to set an emission limit, and two, they had to set the percentage reduction. The emission limit that they proposed in an advisory committee meeting about two months ago was a continuation of the emission limit of 1.2 pounds of sulphur per million b.t.u., but an emission reduction of ninety percent, which would mean that even if you had that low sulphur coal that is prevalent just west of here, you would still have to have a scrubber on it that would remove ninety percent of the sulphur dioxide.

The utility industry brought considerable pressure in that particular meeting. Unfortunately, I do not think it had much effect on EPA. The utility industry bought the 1.2 standard, but pointed out that they felt it was much more realistic to go for eighty percent emission reduction for high sulphur coals, and fifty percent for low sulphur coals. If our real concern was to meet health-oriented and welfare-oriented levels of air quality, it was ridiculous to start putting ninety percent removal on .5 and .6 sulphur coal. Recent conversation with EPA's technical experts in North Carolina lead me to believe that the 1.2 standard itself may now be in some problems, because there are people down there suggesting that that 1.2 standard be reduced to .8 pounds of sulphur oxide per million b.t.u. To give you some idea of what that means to those of us in the coal industry, if the number decided on should happen to come out as .8 pounds per million b.t.u., it would mean that even with a ninety percent scrubber on the plant, you could not begin with any coal in excess of three percent sulphur. That does a pretty effective job of eliminating most of the coal in the midwest, and a fair portion of that in the east. I do not know what new miracle of modern science is going to solve that particular problem for us. I have spent considerable time with EPA pointing out to them just exactly what they were trying to do to us if they put the number that low. To those of you who think it would be much simpler just to say you can use higher sulphur content coal if you go to a higher percentage scrubber, I remind you that none of these scrubbers have been demonstrated with any extent of efficiency more than eighty-five percent, and that only with low sulphur coal. I do not know of any high sulphur coal

scrubbers that are doing a job over prolonged periods of time with high efficiency.

One other amendment that relates to this same issue of using western coal, eastern coal, things of that nature, is an amendment that was added late in the discussion and it is commonly referred to as the "local coal amendment." This is an amendment by which the governor of a state, the EPA Administrator, or the President, asks for a demonstration of job-related emergencies in a particular state, and could shut off any coal from coming into that state. For example, if the State of Ohio found that most of the coal being used in Ohio was from east Tennessee or east Kentucky, and that their own industry was actually being abandoned, the governor could, after a request to the Administrator and a showing that it was negatively impacting on their people, prevent that coal from coming into the state. I do not know the fate of that particular amendment. It is in the Clean Air Act as it was passed, but there is an amendment to the energy bill which would strike the local coal amendment. That one is still in doubt.

I was asked a question this afternoon about some newspaper copy relative to that significant deterioration issue. You may have noted that late last week some lawsuits were filed by the Environmental Defense Fund relative to prevention of significant deterioration (PSD). That is the simplest way that they cover it. The legal action centered around the fact that some read the Clean Air Act as saying that PSD would not go into effect until the state implementation plans were reworked in 1979. Others, including those within the EPA, read it to say that it should go into effect on March 1, and the Environmental Defense Fund and some others say that it should go into effect on August 7, 1977, when the bill was passed. I do not know what will be the outcome of that particular legal battle, but it certainly will have its effect on the coal industry, whether it is from the user or from the production end.

Let me close with a comment about the impact of the Clean Air Act on the production end, because while most people view the Act as having a negative impact on the utility industry's use of coal, it does have some direct impact on the coal industry itself. Again, for the most part, it is in that area of PSD, prevention of significant deterioration. In applying for a permit to construct in a PSD area, one must use a technique of modeling, which demonstrates the potential pollution effects of that particular plant. EPA has set up a series of models. Unfortunately, every model that I have seen is good for the very plant that

the model was designed around. So that if you try to apply that model to other facilities in other areas, it is either impractical, or it just does not work. We have run into a situation in West Virginia in the steep valley areas of the country, and it may well exist in areas west of here, where the model itself would disallow the construction of coal preparation plants, particularly coal preparation plants with thermal driers. The Congress in its wisdom believed that coal preparation plants were another tool for air pollution control, and added that part of the Clean Air Act, and now another portion of the Clean Air Act, disallowing the construction of the facility which is going to clean the coal. That is the type of Catch-22 situation that I think Jerry kept referring to this morning; they get us both ways.

There are some others suggesting that PSD, or prevention of significant deterioration, applies to the fugitive dust coming from large western strip mines. I suggest that you read that section of the bill rather closely, because the PSD section of the bill relates to twenty-eight specific industrial facilities, each of which are stationary facilities with an emission point such as a stack. I have a real problem trying to figure out how Region 8 interprets that section of the bill to include a large western surface mine. It is not stationary, and it doggoned well does not have a stack. So that is another stumbling block to utilizing coal.

As I noted earlier today, we have a real concern for Mr. Carter's program on coal. We would like to see it achieved. Obviously, we would like to see that 1.1 or 1.2 billion achieved by 1985, and we have gone on record with him by pointing out to him the very plants by which he could achieve that. The 250 utility plants that could utilize the coal from the 352 mines that we have named and cited. I would hope that we can get a response from Mr. Carter or from EPA, or from whatever agency of government has the responsibility for this, as to whether these plants can be built and the coal mines can be put in. I have a real problem with seeing it achieved under the Clean Air Act in its present mode, and it may well be that we will have to go back to Congress in the not too distant future and call for some amendments. I think we are suddenly realizing that some legislation occasionally is passed rather hastily by well-meaning people, particularly in late-evening conferences, and if you will remember, Fred, that was about 10:00 or 11:00 o'clock when most of those conferences were held. I am not too sure that the impact of the air conditioning going off at 9:00 had anything to do with the decisions or not, but I think it did. I think we

have turned the ball over to Mr. Carter. We have shown him how he can get the 1.2 billion tons if he really wants it. He needs to let us know whether we can build the plants and build the coal mines.