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April 1, 2016

Honorable Jay Scott Emler
Chairman, Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604

Dear Mr. Chairman:

Knowing of the Kansas Corporation Commission's interest in the Obama Administration's so-called "Clean Power Plan," I wanted to provide this update on events earlier this week.

On Tuesday, former Vice President Al Gore participated in a news conference in New York City announcing a group of 17 state and territorial attorneys general. The Gore group says it supports using state securities laws and consumer protection laws to punish fossil-fuel companies for what they said, or did not say, years ago about the state of climate science.

I want to assure you that the State of Kansas is not participating in the Gore group's initiative, which one reporter at the New York news conference likened to a "publicity stunt." Instead, Kansas remains committed to working with the separate coalition of 27 states that are in court fighting the federal administration's "Power Plan." Our 27-state, bipartisan coalition has successfully convinced the U.S. Supreme Court that the federal administration's regulatory power grab likely is illegal and should be blocked while the lower courts sort out its legality.

You may be aware that some news coverage characterized this week's Gore group gathering in New York as an "unprecedented coalition," but there is little about it that was "unprecedented." Eleven of the 17 attorneys general who participated are the same folks who took part in the 2010 sue-and-settle lawsuit that used federal courts to try to force the adoption of the federal energy regulations that became the "Power Plan." If anything was "unprecedented" about the event this week, it was the strictly partisan nature of announcing state "law enforcement" operations in the presence of a former vice president of the United States who, presumably, has no role in the enforcement of the 17 states' securities or consumer protection laws.

The Gore group's announcement this week also coincides with the filing of numerous amicus briefs in opposition to our 27-state lawsuit against the federal administration's "Power Plan." Not surprisingly, these briefs mostly argue that the federal administration's new regulations should be upheld by the courts under ends-justifies-the-means reasoning.

Chairman Emler

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In Kansas, we won't take our eye off the ball. The federal administration's attempt to impose central economic planning over our nation's energy sector threatens to significantly drive up the cost of electricity for hard-working Kansas families and businesses. If America's power generation needs to change, that is a decision to be made by the American people's elected representatives in Congress who can balance the many important interests at stake – not by unelected federal planners.

Our state's legal strategy will remain focused on defeating the federal administration's illegal new power regulations. We won't become distracted. I appreciate this opportunity to clarify the Kansas position and to reassure you and the Commission that we will not waver in our commitment to reliable, affordable electricity for Kansas consumers and ratepayers.

Best wishes,

A handwritten signature in black ink that reads "Derek Schmidt". The signature is written in a cursive style with a large, prominent "D" at the beginning.

Derek Schmidt
Kansas Attorney General