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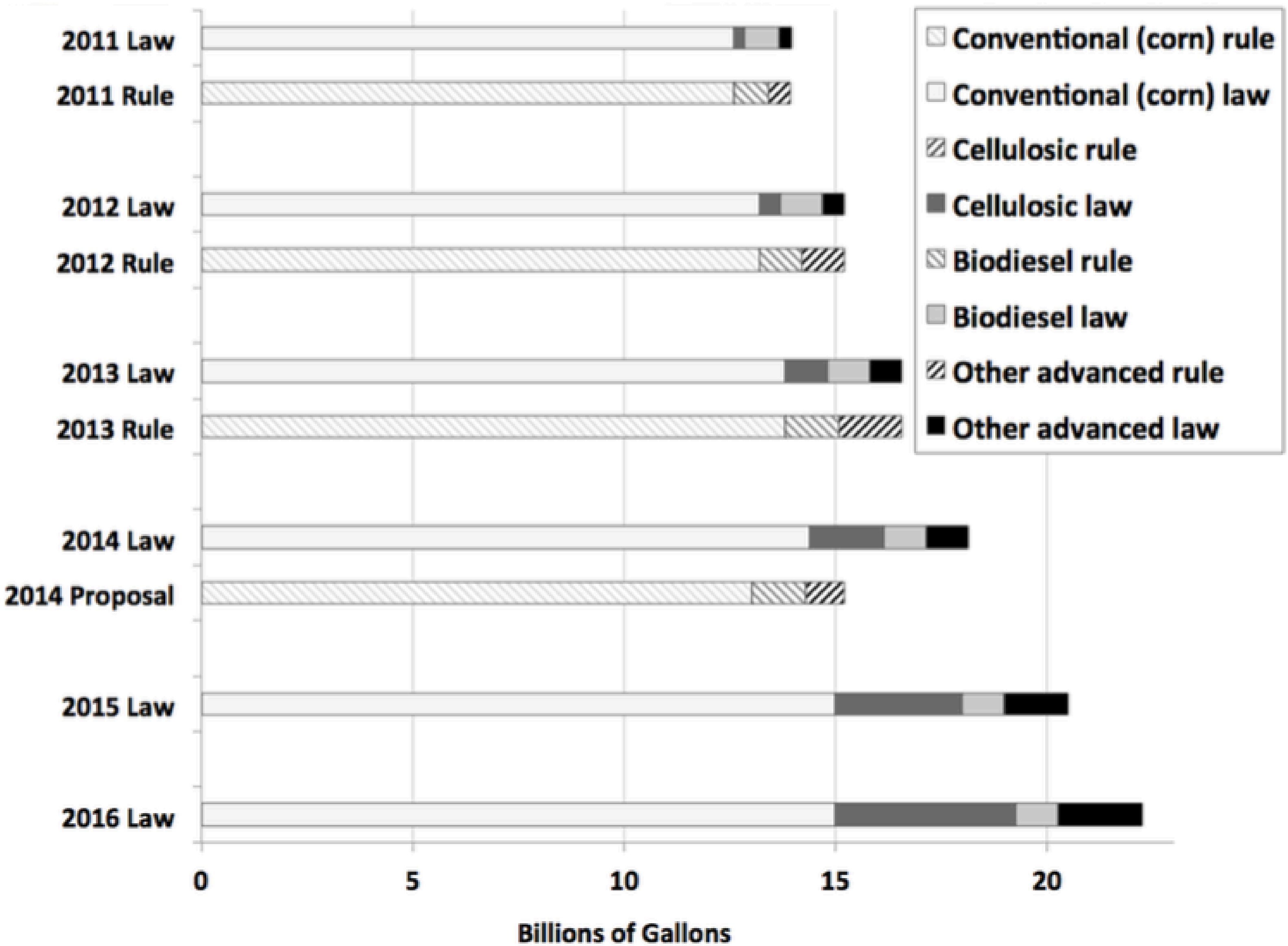
How Cheap Is Corporate Talk?

What companies tell regulators
about proposed rules …
& what they tell shareholders

Renewable Fuel Standard

- Gasoline providers must include a certain percentage of renewable fuel
- EPA proposes & sets that percentage each year
- Oil & ethanol companies comment on the proposal
- Hypothesis: oil companies may want to tell
  - Regulators that a strict standard will hurt them, cost jobs, and harm the economy, but
  - Investors that the standards won't harm them

Figure 4. EPA Changes to Renewable Fuel Standard Targets 2011-2014 (2014 proposal would ramp down mandated renewable fuel volumes while the statute calls for continually increasing volumes)



Regulator's Dilemma

Regulator’s Dilemma

- Lee Iacocca on 1970 Clean Air Act: “This bill could prevent continued production of automobiles and is a threat to the entire American economy and to every person in America.”
- Ford’s 1970 Annual Report to Investors: “The automobile industry has survived and grown even in countries where government policies have made the cost of car ownership several times higher than it is in the US. We have no doubt that our industry will continue to grow, because people everywhere place a high value on the individual mobility and on the freedom that this mobility makes possible.”

Methodology

- Docket: 3,955 comments from four years
  - 2010, 2011, 2012, 2013
- Our sample: companies that submitted comments to EPA & filed an annual report (Form 10K) to SEC for same year
- 56 unique comments submitted by 36 different companies

Methodology

Methodology: cases studied

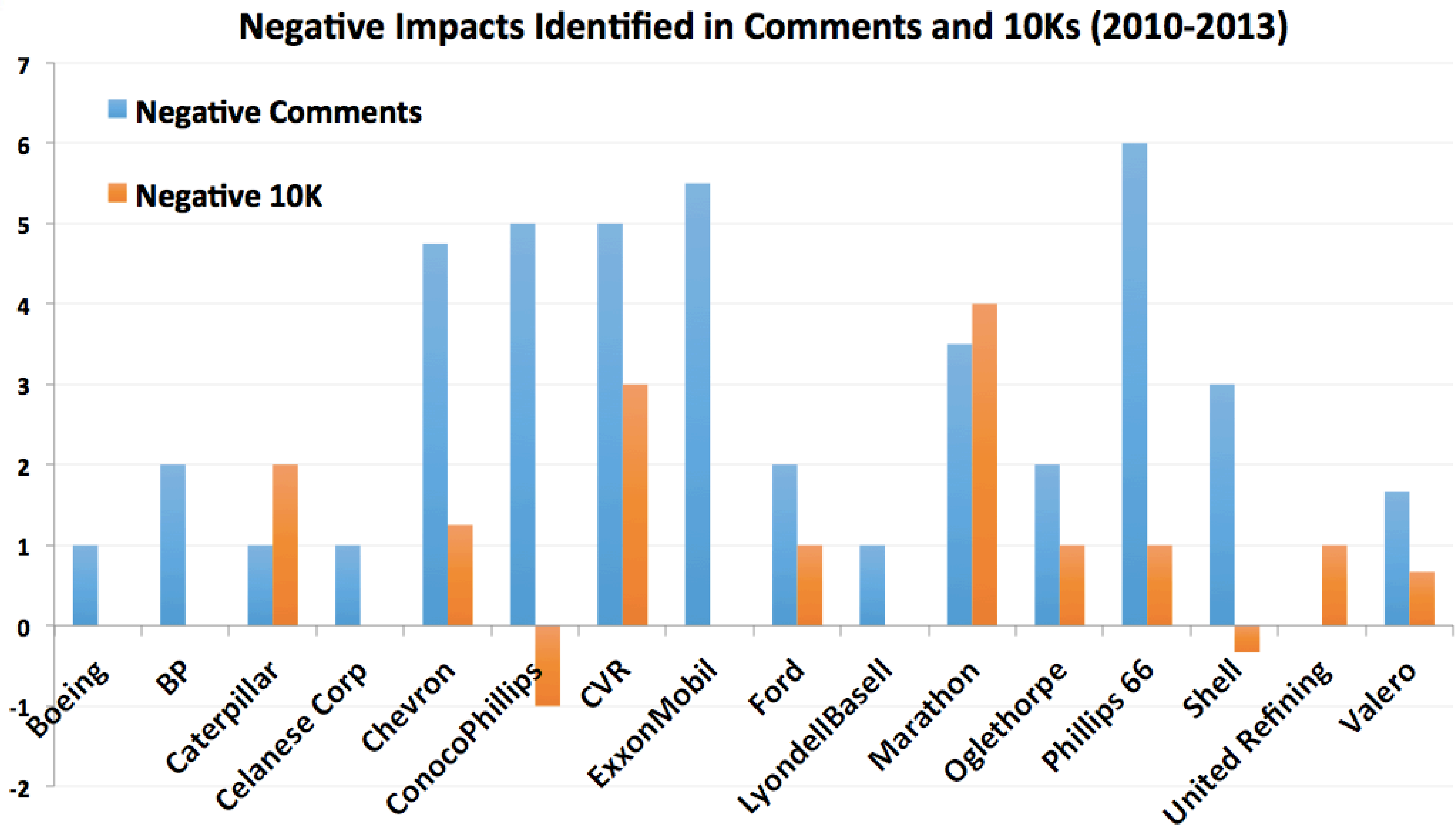
	2010	2011	2012	2013
Number of comments	3257 (combined 2007-2010)	529 (combined 2011 & 2012)	529 (combined 2011 & 2012)	169
Number of public company comments	33	3	9	11
Number that predicted negative impact	14	1	6	7
Number of that predicted positive/ neutral impact	19	2	3	4

➔**Sample: 56 unique instances of comments submitted by 36 different companies.**

Methodology

- Developed and verified 59 codes
- Coded 10,000 pages of documents
- Tracked codes with QDA Miner
- Paired t-test, Wilcoxon-Mann-Whitney: Do companies tell regulators more about negative impacts than they tell shareholders?

Results



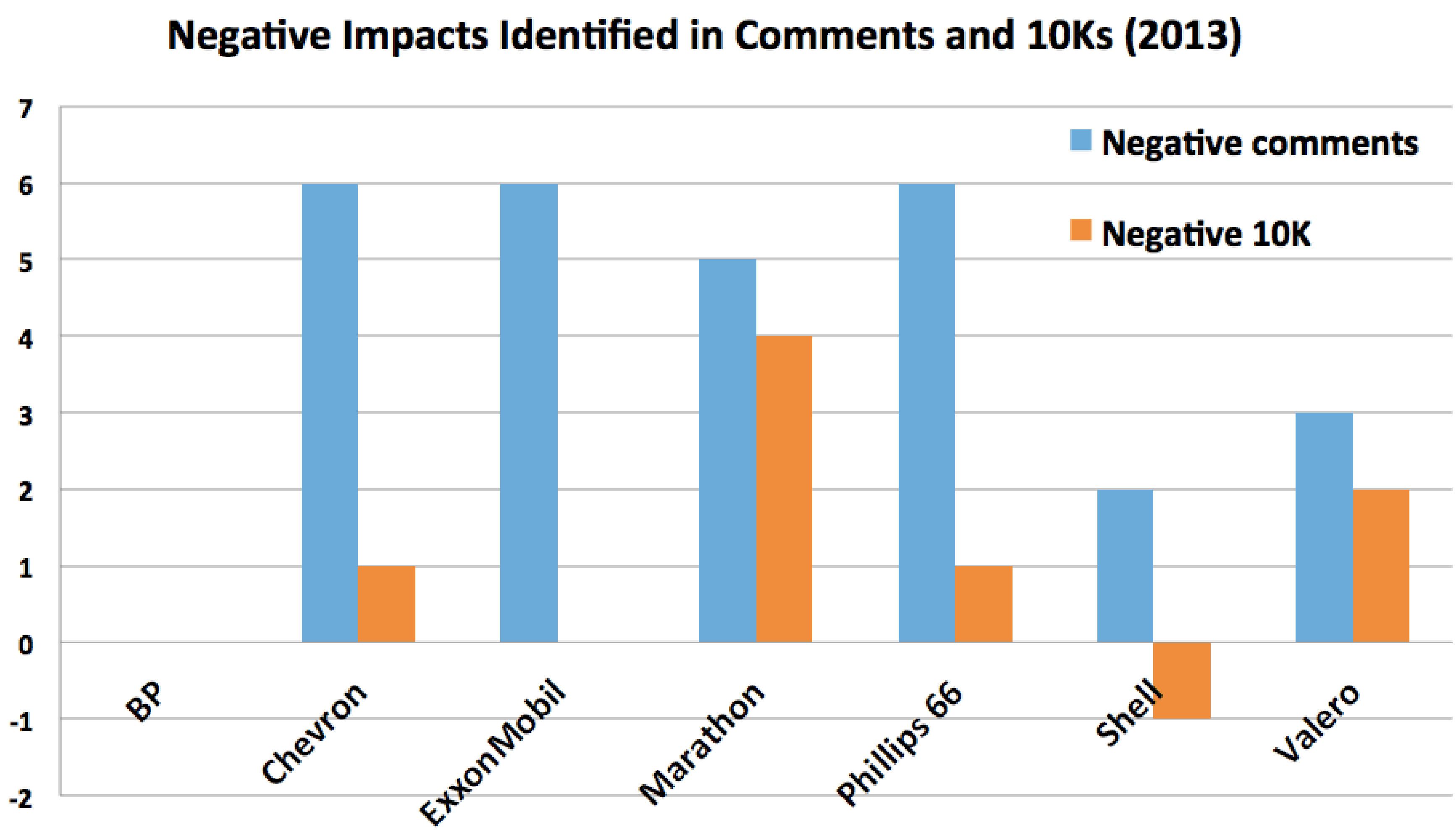
Negative Impacts Identified in Comments and 10Ks (2010-2013)
Negative Comments
Negative 10K
7
6
5
4
3
2
1
0
-1
-2
Boeing
BP
Caterpillar
Celanese Corp
Chevron
ConocoPhillips
CVR
ExxonMobil
Ford
LyondellBasell
Marathon
Oglethorpe
Phillips 66
Shell
United Refining
Valero

Talk is somewhat cheap

Comparing companies which perceive the RFS as a risk to those who see RFS as a benefit for 2010-2013

	Comments to EPA	Form 10K
Average number of negative impact predictions found in companies which consider the RFS as a risk	2.78	0.87
Average number of positive impact predictions found in companies which consider the RFS as a benefit	0.21	0.57
P= 0.003		

2013 Results



Contrasting Predictions

- *Comment*: “EPA should exercise all its authority … to adjust the RFS standards to mitigate the blend wall” otherwise “it will limit the supply of gasoline and diesel fuel and have significant adverse impacts on consumers.”
- *Comment*: “EPA should use its general waiver authority to adjust the standards down to reasonably achievable levels to avoid severe economic harm.”
- *10K*: “The international market for biofuels is growing, driven largely by the introduction of new energy policies in Europe and the USA that call for more renewable, lower-carbon fuels for transport. Shell predicts that biofuels will increase from 3% of the global transport fuel mix today to around 10% by 2050. … We are one of the world’s largest biofuels producers.”

Contrasting Predictions

- *NPRA Comment*: "January 1, 2010 implementation is infeasible."
- *10K*: The RFS "requires fuel producers and importers to provide additional renewable fuels for transportation motor fuels that include a mix of various types to be included through 2022. We have met the increased requirements to date while establishing implementation, operating and capital strategies, along with advanced technology development, to address projected future requirements."

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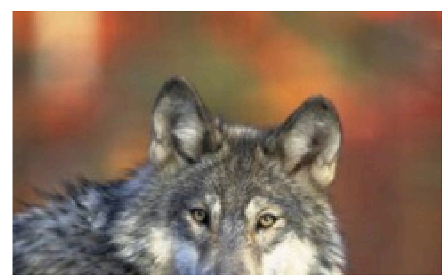
DO CORPORATIONS CRY WOLF? – COMPARING WHAT COMPANIES TELL REGULATORS WITH WHAT THEY TELL INVESTORS

April 1, 2015 | energylawprof | Leave a comment

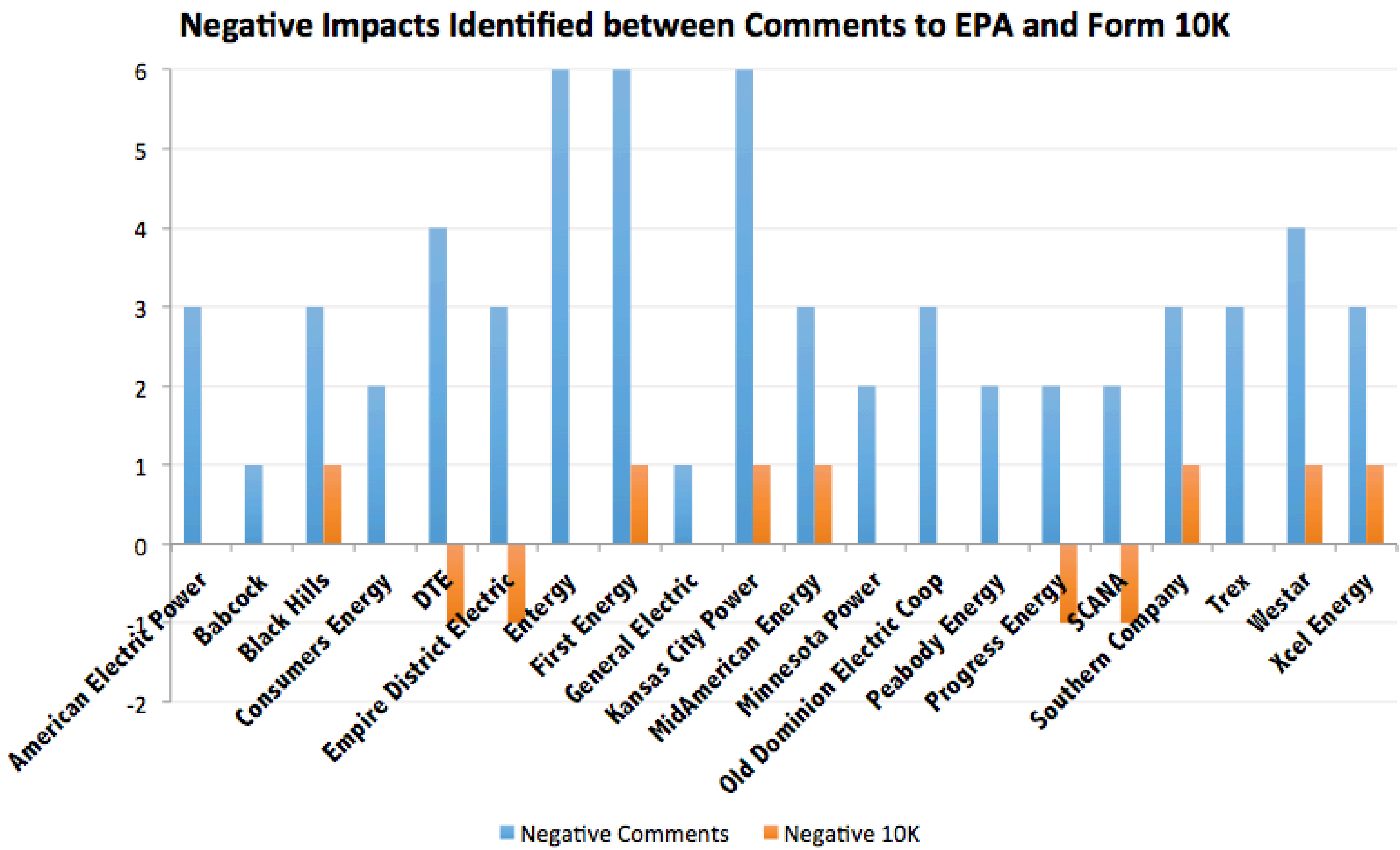
Corporations regularly complain that new regulations will harm their business and the broader economy. How seriously should we take those warnings? I've just posted a paper that presents a way of answering this perennial question.



Follow-up Study: Coal Power

- Similar standards proposed in both US and Canada
- Do coal & utility companies warn regulators of severe consequences while reassuring shareholders?
- US: 20 companies with comments & 10Ks
- Canada: 5 companies with 10Ks, but no comments

Results



Negative Impacts Identified between Comments to EPA and Form 10K
6
5
4
3
2
1
0
-1
-2
American Electric Power
Babcock
Black Hills
Consumers Energy
DTE
Empire District Electric
Entergy
First Energy
General Electric
Kansas City Power
MidAmerican Energy
Minnesota Power
Old Dominion Electric Coop
Peabody Energy
Progress Energy
SCANA
Southern Company
Trex
Westar
Xcel Energy
Negative Comments
Negative 10K

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Comparing Negative Impact Predictions American and Canadian companies

	United States	Canada
Number of Companies Studied	12	5
Total Number of Negative Impact Predictions in Annual Filings*	3	6
Average Number of Negative Impact Predictions	0.25	1.2

*Annual filings studied are Form 10K in the US, Annual Information Form, MD&A in Canada.

US Comments Less Frank?

- *US*: The air emissions programs that may affect our operations, directly or indirectly, include, but are not limited to, the Acid Rain Program, interstate transport rules, New Source Performance Standards . . . . Many of these programs and regulations have resulted in litigation which has not been completely resolved.
- *Canada*: It is not yet possible to estimate with specificity the impact to the Corporation's operations. However, the Corporation's Canadian operations are large facilities, so the establishment of emissions regulations (whether in the manner described above or otherwise) may well affect them and may have a material adverse effect on the Corporation's business, results of operations and financial performance. In addition, the Corporation's operations require large quantities of power and future taxes on or regulation of power producers or the production of coal, oil and gas or other products may also add to the Corporation's operating costs.

Proposed & Adopted

Proposed Standards for 2010

Cellulosic biofuel	0.06%
Biomass-based diesel	0.71%
Advanced biofuel	0.59%
Renewable fuel	8.01%

Standards for 2010

Fuel Category	Percentage of Fuel Required to be Renewable	Volume of Renewable Fuel (in billion gal)
Cellulosic biofuel	0.004%	0.0065
Biomass-based diesel	*1.10%	*1.15
Total Advanced biofuel	0.61%	0.95
Renewable fuel	8.25%	12.95

**Combined 2009/2010 Biomass-Based Diesel Volumes Applied in 2010*

Table 2

Proposed Percentage Standards for 2011

Cellulosic biofuel	0.004-0.015%
Biomass-based diesel	0.68%
Advanced biofuel	0.77%
Renewable fuel	7.95%

Final Percentage Standards for 2011

Cellulosic biofuel	0.003%
Biomass-based diesel	0.69%
Advanced biofuel	0.78%
Renewable fuel	8.01%

Proposed & Adopted

Table 2
Proposed Percentage Standards for 2012

Cellulosic biofuel	0.002 to 0.010%
Biomass-based diesel	0.91%
Advanced biofuel	1.21%
Renewable fuel	9.21%

Table 2
Final Percentage Standards for 2012

Cellulosic biofuel	0.006%
Biomass-based diesel	0.91%
Advanced biofuel	1.21%
Renewable fuel	9.23%

Table 2
Proposed Percentage Standards for 2013

Cellulosic biofuel	0.008%
Biomass-based diesel	1.12%
Advanced biofuel	1.60%
Renewable fuel	9.63%

Table 2
Final Percentage Standards for 2013

Cellulosic biofuel	0.004%
Biomass-based diesel	1.13%
Advanced biofuel	1.62%
Renewable fuel	9.74%