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TESTIMONY OF ROBERT K. JAMES

MEMBER OF THE AVON LAKE CITY COUNCIL

BEFORE THE

U.S. SENATE COMMITTEE ON ENVIRONMENT & PUBLIC WORKS

SUBCOMMITTEE ON CLEAR AIR AND NUCLEAR SAFETY

**“Oversight: Review of the Environmental Protection Agency’s Mercury and Air
Toxics Standards (MATS) for Power Plants”**

March 20, 2012

I would like to thank Chairman Carper, Ranking Member Barraso, and the other members of the subcommittee for inviting me to testify today. My name is Rob James, and I am a member of the City Council of Avon Lake, Ohio, where I represent the residents of Ward 1. In addition, I am the chairman of the Environmental Committee and a member of the Economic Development Committee on City Council. Avon Lake, Ohio is a beautiful community of nearly 23,000 residents on the shores of Lake Erie, approximately twenty miles west of Cleveland.

Although I am currently an attorney in private practice, I have previously served as an assistant attorney general for the Office of the Ohio Attorney General, where I represented the State of Ohio and numerous state officials and agencies, including the Ohio Environmental Protection Agency. My work as an assistant attorney general

included enforcing environmental laws and regulations and ensuring that the natural resources of Ohio were protected. However, I am here today because I think it is important that Congress understands the impact of environmental rules, such as the Mercury and Air Toxics (“MATS”) rule, on local communities such as Avon Lake.

Introduction

On February 29th of this year, GenOn Energy, Inc. announced that it would close the coal and fuel-oil fired electric generating plant in Avon Lake in 2015. The Avon Lake Generating Station is capable of generating 734 megawatts, providing baseload electric capacity and load-following capability to the grid, as well as essential peaking capacity and black start capability. This facility plays an important role in providing a reliable and affordable supply of electricity.

The reasons behind the closure are clear. GenOn stated that the closure was a result of the rising costs associated with EPA’s regulations, and the fact that the overwhelming costs associated with complying with the rules could not be recovered by continuing to operate the facility.

While some may celebrate the closure of these types of facilities based on broader policy objectives, the loss of power plants have a very real impact on the communities in which they are located. These are not just abstract costs. The families of my community have to absorb these significant losses.

Impact on the City of Avon Lake

The most immediate impact will be on the 80 people employed by the Avon Lake facility. The type of quality jobs at the Avon Lake plant are increasingly hard to find in

our country, let alone in Ohio and in the greater Cleveland area. But this is about more than just the jobs of the people employed at the plant; instead, it is about the ripple effect that harms an entire community. In present dollars, closure of the Avon Lake generating facility will cost the City of Avon Lake over \$77,000 in income taxes, and at least \$268,000 in property taxes per year.

This loss of taxes does not just represent the loss of general revenue used to fund the city and its programs. Significantly, a sizeable portion of the property taxes collected is used to fund Avon Lake paramedics and emergency medical services. The loss of nearly \$50,000 annually from the EMS budget, which is the amount that would be lost from the closure, would reduce the EMS operating budget by half.

In particular, the loss would be realized by the inability to fund critical items ranging from paramedic supplies (i.e. cardiac medications, oxygen, oxygen masks, heart monitors), ambulance maintenance and repair, fuel, insurance, the purchase of ambulances, and the training and education of paramedics. With respect to personnel costs, it may eliminate one of the eight paramedics funded by property tax revenues, which represents a 12.5% reduction in the paramedic work force.

In addition to the taxes paid by the Avon Lake power plant, GenOn has donated various equipment and training to the Avon Lake Fire Department and EMS. For instance, the Fire Department has received a thermal imaging camera, with an approximate value of \$7,200, which assists firefighters to see heat in limited visibility, locating victims and the exact location of the fire more rapidly. Additionally, the Fire Department has been given a piercing nozzle, which has a value of nearly \$6,000, and is

used in firefighting to penetrate steel and other materials to combat hidden or inaccessible fires, and well as firefighting foam, worth several thousands of dollars, which helps extinguish flammable and combustible liquid fires.

Thus, the closure would directly affect ability of the City of Avon Lake to effectively deliver an emergency paramedic and firefighting service to its 23,000 residents. Undoubtedly, this will have a direct impact on the health of Avon Lake residents.

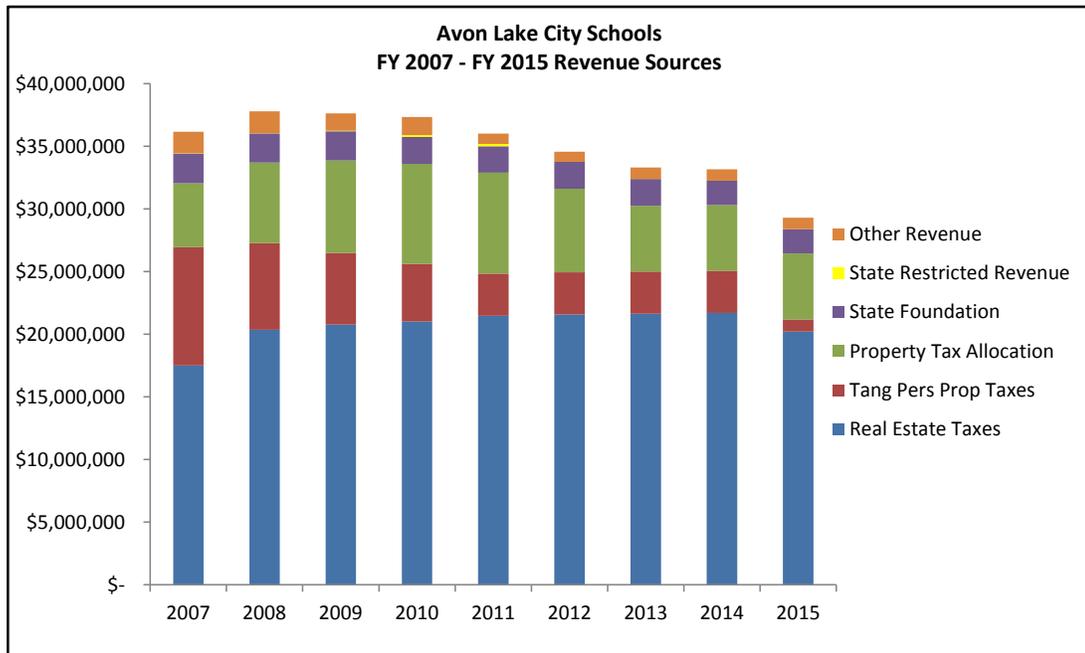
Impact on the Avon Lake City School District

Even more concerning is the impact the closure will have on the Avon Lake City School District. The Avon Lake City School District currently has an enrollment of approximately 3834 students. It has 249 teachers, of whom 100% percent are state certified, and 70% have master's degrees or higher. In addition, the district has another 257 non-teaching staff, which includes administrative assistants, custodians, bus drivers, and other employees.

In 2011, 93% of Avon Lake graduates enrolled in a two year college, four year college, or in the military, and 65% of the students received college credit before graduating. Moreover, the students earned approximately \$9 million in scholarship awards for college.

Not surprisingly, Avon Lake City School District has been rated as "Excellent" by the State of Ohio for the past nine consecutive years. Of 937 school districts in the state, Avon Lake ranks 25th, or in the top 2.5% of all districts.

At present, Avon Lake City School District collects \$2.4 million in utility taxes alone, and another \$1.5 million in real property taxes. The potential loss of nearly \$4 million dollars *each year* would have an unimaginable effect on Avon Lake’s schools. Based on fiscal year 2011 revenue of \$35,997,561, a loss of \$3.9 million equates to an 11% reduction. Revenues for fiscal years 2012 and 2013 are forecast to be even lower, so the reduction will likely be even greater. This projected loss to the school district can be summarized in the following chart:



The step decline in revenue from 2014 to 2015 can clearly be seen, which represents the loss of taxes from the Avon Lake power plant. Not only will the loss of revenue directly impact the ability of the schools to provide a high quality of education for all students, but many of the programs offered by the school for students with the greatest needs would be lost.

Indeed, many of the health and welfare programs for the students may need to be eliminated. The loss of the Avon Lake power plant would force the school district to end, for example, outreach services at the Cleveland Clinic Learner Center for Autism that help meet the needs of autistic students without having to send them to outside placement; no-cost programs at Applewood Center, which helps children and teens who are struggling with depression, anxiety, Attention Deficit Hyperactivity Disorder, the effects of trauma or abuse, or are having behavioral difficulties at home or in school; anonymous counseling and awareness programs from the Lorain County Alcohol and Drug Abuse Services, and a program through Genesis House and Teen Street Team to assist students in talking to their peers about abuse.

As Avon Lake School District Superintendent Dr. Robert Scott has noted, these losses are “devastating,” especially in light of the fact that the school district is already having to reduce the number of teachers in schools because of state budgetary issues.

These same sentiments are shared by many parents of students in Avon Lake schools. Deborah Ludwig, a parent of a student at Troy Elementary School, stated:

With the Avon Lake GenOn closing, it will highly impact the community’s energy costs and quality of life. There are many unforeseen factors that will be generated by this plant’s closing that will impact not only the residential establishments BUT also the Avon Lake School System. With the Federal Government continually raising the bar on EPA standards and in effect costing our energy plants upgrades that they cannot afford to make, the end result will be a wealth of empty and useless plants across the state, higher consumer costs and a downgrade on everyone’s quality of life especially here in Avon Lake.

Kris Simecek, a parent of a student at Westview Elementary School, shares a similar perspective. She said:

My husband and I moved to Avon Lake over 20 years ago because of one specific reason – the quality of Avon Lake City Schools. Since then, we have raised four boys who all went through the Avon Lake school system. If GenOn closes, the economic impact on our high quality school system will be highly detrimental. The future of the school system, and therefore the future of the children of Avon Lake, is dependent on consistent resources. As a mother, the health of my children is very important. If the closing of GenOn is the only way to improve the air quality and the health of our children and community, it should not be done to the detriment of those very same children and community members.

The loss of the Avon Lake power plant clearly represents an incredibly difficult challenge for the Avon Lake School District. While the intended objective of clean air is important, the unintended consequence of the loss of revenue to the school system must be considered in promulgating environmental regulations.

Impact on the Cost of Electricity

In addition, consumers in Northeast Ohio are likely to pay more for their electricity. This Committee has in the past heard from Catholic Charities of Cleveland, a group on the frontlines of addressing the impact of high energy costs. It testified that the loss of power plants “would have a devastating effect on the people of Ohio and our country, particularly the poor and the elderly.”

The group attempted to quantify the impact of such closures as follows:

The overall impact on the economy in Northeast Ohio would be overwhelming, and the needs that we address at Catholic Charities in Ohio with the elderly and poor would be well

beyond our capacity and that of our current partners in government and the private sector. In a recent study on Public Opinion on Poverty, it was reported that one-quarter of Americans report having problems paying for several basic necessities. In this study, currently 23% have difficulty in paying their utilities - that is, one out of four Americans.

Unfortunately, other communities in addition to Avon Lake are suffering from the costs of the MATS rule. In Ohio alone, nine other power plants have announced that they will close, including Conesville, Muskingum River, Picway, Beckjord, Miami Fort, Ashtabula, Bay Shore, Eastlake, Lake Shore, and Niles. This represents a loss of 5,870 megawatts in just Ohio. Additional losses will be felt outside of Ohio, including Glen Lyn, Virginia; Muskegon, Michigan; and Upper Mount Bethel Township, Pennsylvania. In each of these communities, and all the other locations where plants are closing, it will be harder to pay for the schools, hospitals, and basic services that keep communities vibrant and healthy.

Conclusion

As the debate over the MATS rule continues, I hope that Congress will keep in mind communities like Avon Lake. While the need for environmental regulation is important, EPA must understand the consequences of its regulations on our communities. Places like Avon Lake need affordable and reliable electricity, a strong educational system, and opportunities for our economies to rebuild and grow. The U.S. economy is still struggling to recover, and Northeast Ohio is at the center of this struggle. We know that we can have clean air, good jobs, and reliable electricity – but only if policies are implemented based on sound analysis, and with full consideration of

the real costs of the choices made by regulators. It is my hope, and belief, that there is still time to change the debate and apply environmental regulation in a responsible manner before more unnecessary damage is done.

Thank you again for the opportunity to testify today.