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EXAMINING STATE PERSPECTIVES OF THE EPA'S PROPOSED CARBON DIOXIDE
EMISSIONS RULES FOR EXISTING POWER PLANTS

WEDNESDAY, MARCH 11, 2015

U.S. SENATE

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:00 a.m. in room 406, Dirksen Senate Building, the Honorable James Inhofe [chairman of the committee] presiding.

Present: Senators Inhofe, Boxer, Barrasso, Capito, Crapo, Boozman, Sessions, Fischer, Rounds, Carper, Whitehouse, Merkley, Gillibrand, Markey.

STATEMENT OF THE HONORABLE JAMES INHOFE, A UNITED STATES SENATOR
FROM THE STATE OF OKLAHOMA

Senator Inhofe. We will bring this hearing to order.

It is great to have the panel. I had a chance to meet each one of you. I really do think that the most important thing, when we get into these rules and regulations is the State perspective. Because they are the ones who have to carry these things out, have to pay for all this stuff.

So we are here today with State officials on the CO2 regulations for existing power plants. Existing. The Clean Power Plan is unprecedented in the scope, complexity and requirements it will impose on State governments. That is what you guys are going to have to carry out.

The proposal undermines the longstanding concept of cooperative federalism under the Clean Air Act, where the Federal Government is meant to work in partnership with the States to achieve the underlying goals. Instead, this rule forces States to redesign the ways they generate, manage and use electricity in a manner that satisfies President Obama's extreme climate agenda.

To date, we have 32 States who have opposed this rule. There is the chart. There are 32 States that oppose the rule. Twelve States, including my State of Oklahoma, are suing the agency over a lack of authority to promulgate the proposal. Nine States have passed resolutions in their legislatures that express

limits to the proposal's application. Five States have passed laws that would limit the proposal's application.

Had the EPA engaged in a meaningful dialogue with all these States, the agency would not be rushing ahead to impose such an unfair and unworkable and likely illegal regulation.

While the EPA is busy selling this as a plan to save the world from global warming, we know that this rule will have minuscule impacts on the environment. In fact, last week during the EPA budget hearing, Administrator McCarthy admitted that the agency has yet to do any modeling that would measure the proposal's impact on temperatures and sea level rise. There is a reason for that. And the reason for that is that NERA, which is a very highly-respected group on economic modeling and analysis, used EPA's models and numbers and found that after spending \$479 billion over a 15-year period, we would see the double digit electricity prices increase in 43 States, reduce grid reliability, resulting in voltage collapse and cascading outages. However, the Clean Power Plan will reduce CO2 concentrates by less than 0.5 percent, global average temperature rise will be reduced by only 0.016 degrees Fahrenheit, and sea level rise would be reduced by 0.3 millimeters, which is the thickness of three sheets of paper.

Further, any perceived benefits will be rendered pointless by the continued emissions growth in India and China. Hold that

up higher, that is a good chart there. You can see the problems. This is the whole point that Administrator Jackson was talking about, what we do unilaterally here in the United States isn't going to have that much effect. It doesn't affect other countries.

These results, or lack thereof, show that this rule is not about protecting the environment or saving lives of the local citizenry. This proposal is about expanding the government's control into every aspect of American lives. As MIT climate scientist Richard Lindzen, and Richard Lindzen is noted to be one of the foremost climatologists in the Country, he said, "Controlling carbon is a bureaucrat's dream. If you control carbon, you control life."

EPA's rushed timeline, impractical assumptions and arbitrary mandates pay no mind to the fact that this will be damaging to State economies and local residents. Their proposals are nothing more than a blatant and selfish power grab.

We have been through these arguments multiple times before, most recently when the President failed to garner enough support for cap and trade under a Democrat-controlled House and Senate. We are talking about back when Nancy Pelosi was a majority, so they had the White House and the House and the Senate. They couldn't get a majority vote in order to support this.

So I appreciate very much all of the people coming so we can

hear the voices from the States. It is nice of you to take the time to be here.

Senator Boxer?

[The prepared statement of Senator Inhofe follows:]

STATEMENT OF THE HONORABLE BARBARA BOXER, A UNITED STATES SENATOR
FROM THE STATE OF CALIFORNIA

Senator Boxer. Thanks so much, Mr. Chairman. I want to welcome all of our witness. I am very proud that Mary Nichols is here. She is really a legend in our State, and has worked on the environment for her whole adult life. She now is Executive Director of the California Air Resources Board. She is going to describe the successes that we are having.

I am also proud that my home State of California has been a leader in this field. And here is the deal: we are prospering. We have to reduce carbon pollution in order to address dangerous climate change. And we can't wait any longer, because we are seeing the impacts all around us. According to NASA, the 10 warmest years on record occurred since the year 2000. And 2014 was the warmest year on record.

Now, people can put their head in the sand, but that is the fact, and facts are stubborn things. According to a new peer-reviewed research in the proceedings of the National Academy of Sciences, and I trust my colleagues respect the National Academy of Sciences, California's record temperatures are driving the State's extreme drought, and scientists predict it will get worse over the coming decades. And just two weeks ago, scientists at NASA and at Cornell and Columbia found that if we fail to act aggressively to cut carbon pollution, we have an 80 percent

chance of a mega-drought in the entire west.

In the face of all this peer-reviewed science showing the impacts from uncontrolled dangerous carbon pollution, States really should be working together to find solutions to prevent climate change. Let me say, we know the American people want action. This isn't a guess, this is a poll. In a Stanford poll, 83 percent of Americans, including 61 percent of Republicans, say if nothing is done to reduce emissions, global warming will be a serious problem in the future.

So again, you can sit here and say it is not an issue. But the American people are in disagreement with that conclusion.

Ultimately, climate change deniers in the Senate continue to attack the landmark Clean Air Act. Just last week, our majority leader, Senator McConnell, told State governments to ignore the Clean Air Act. Imagine, ignore the law of the land, and one of the most popular legislative actions in our history. So we know we can reduce carbon while growing the economy.

And I want to talk about California here and the Regional Greenhouse Gas Initiative. For New York, it is prospering as well. And we will hear some of that from our witness.

California is on a path to cut its carbon pollution by 80 percent by 2050, as required under our greenhouse gas emissions law in our State, AB 32, and the people who tried to overturn that lost at the ballot.

During the first year and a half of the State's cap and trade program, California added 491,000 jobs, a growth of almost 3.3 percent, which outpaces the national growth rate of 2.5 percent. We are living proof that growing the economy and a safe environment go hand in hand. And we are a very large State. This has benefited the middle class.

It may interest you to know that the Energy Information Administration found last month that California's monthly residential electric bill averaged \$90, compared to Oklahoma's monthly bill, which averaged \$110. Under California's climate program, many consumers are even receiving a twice a year climate credit of \$35. That further lowers their utility bill. So California, New York and other States around the Country should be proud of their leadership in putting forward real solutions to climate change and showing that meeting the goals of the Clean Power Plan will benefit our States and our people.

I look forward to hearing from today's witnesses. Thank you, Mr. Chairman.

[The prepared statement of Senator Boxer follows:]

Senator Inhofe. Thank you, Senator Boxer.

We are going to have some introductions, by request, of some of the members of the panel. Let's start with Senator Barrasso.

Senator Barrasso. Thank you very much, Mr. Chairman. It gives me great pleasure to bring greetings from the committee to one of those witnesses this morning, who is Todd Parfitt, the Director of the Wyoming Department of Environmental Quality. He has a long history of working in the State of Wyoming and specifically working in this department. You will remember, Mr. Chairman, that our former Wyoming Department of Environmental Quality director, John Corra, testified here a number of years ago. Todd has worked closely with him and has succeeded him and is now our director.

It is interesting, Mr. Chairman, because today, as Todd testifies, he will have worked with a Democrat governor and a Republican governor in Wyoming. He has always put Wyoming first. He has done what is best for our State and our environment. So it is a privilege today for me to introduce one of those testifying, the Director of the Department of Environmental Quality for Wyoming, Todd Parfitt.

Thank you, Mr. Chairman.

Senator Inhofe. Thank you, Senator Barrasso.

Anyone else here for introductory purposes? I don't believe they are.

We are going to go ahead and start with our testimony. We would like to ask you to do your best to confine your time to the time required. We will start with you, Mr. Myers, then we will to the end, to Ellen Nowak. You are recognized.

STATEMENT OF MICHAEL J. MYERS, CHIEF, AFFIRMATIVE LITIGATION
SECTION, ENVIRONMENTAL PROTECTION BUREAU, NEW YORK STATE ATTORNEY
GENERAL

Mr. Myers. Thank you, Chairman Inhofe, Ranking Member Boxer and members of the committee, for inviting me today to testify.

I am Michael Myers, from the New York Attorney General's office. My perspective is slightly different from those of other members of the panel. As an environmental lawyer, I have worked for the past 15 years at the Attorney General's office, counseling State regulators on legal issues related to air pollution and climate change, and also litigating those issues in the courts.

It is particularly appropriate that the committee should seek to hear State perspectives. Because under the provisions of the Clean Air Act that EPA is using for the Clean Power Plan, Section 111(d), States are in the driver's seat. But for us to succeed in this critically important area, each State has to be willing to take the wheel.

From the perspective of a State, New York, that has already taken action to cut power plant greenhouse gas emissions, I have good news for other States: you can significantly reduce these emissions from the power sector and do so in a way that helps grow your economy. New York and other States in the Regional Greenhouse Gas Initiative have reduced greenhouse gases from the

electricity sector in our region by 40 percent from 2005 levels. Reinvesting the proceeds from the auction of pollution allowances in renewable and energy efficiency projects has kept down electricity costs in our region.

EPA's Clean Power Plan would build off the work that the RGGI States and others like California have done in this area. The plan would cut greenhouse gases from power plants by about 730 million metric tons, equivalent to the annual emissions of powering half the homes in America.

The shift to cleaner generation would also result in substantial public health benefits, including 150,000 fewer asthma attacks by 2030.

But back to the point I started with: for this plan to work, States have to be willing to step up. Some are discouraging States from doing so on the grounds that the Clean Power Plan is unlawful. My written testimony highlights why such arguments are meritless.

First, action under Section 111(d) to address greenhouse gases from fossil-fueled power plants is required under the Clean Air Act. The law requires EPA to ensure that States achieve emission reductions from power plants necessary to protect human health and welfare from the harms of carbon pollution.

Second, EPA's regulation of hazardous air pollutants from existing power plants under one provision of the Clean Air Act

does not preclude the use of Section 111(d) to require those plants to cut their greenhouse gas emissions. The implication of that claim is that EPA had a choice. It could either use the Act's hazardous air pollution program to cut power plant mercury emissions that poison the fish we eat, or it could combat climate change by using the provision the Supreme Court speaks directly to power plant carbon emissions. Not only does this interpretation defy common sense, it is wrong as a matter of law.

Third, it is clear that EPA has the authority to set substantive emission limitations for States to meet. In the absence of such a benchmark, State plans could vary widely in terms of their stringency and effectiveness. States have a lot of flexibility, however, on how to achieve their emission targets in a way that best suits their respective circumstances.

Fourth, it is also clear that EPA has the authority to interpret the best system of emission reduction to reflect the various ways in which States and utilities have reduced greenhouse gas emissions from the electricity sector. EPA's building blocks approach appropriately recognizes successful strategies, such as cap and invest programs, renewable portfolio standards, and energy efficiency that States and utilities have already shown can significantly reduce carbon emissions and do so cost effectively.

In conclusion, here is what I would urge State regulators to

consider. The world's scientists are telling us that we need to act now if we are to have a chance at avoiding catastrophic harms from climate change. Our faith leaders are telling us we have a moral imperative to act. The law, the Clean Air Act, requires us to act. And EPA's plan for cutting greenhouse gases from existing power plants is on sound legal ground.

Both EPA and your fellow States are open to working with you on how best to cut emissions in your State. The time is now for State leadership. So take the wheel.

Thank you for the opportunity to testify. I look forward to answering the committee's questions.

[The prepared statement of Mr. Myers follows:]

Senator Inhofe. Thank you, Mr. Myers.

Mary Nichols is the Chairman of the California Air Resources Board. You are recognized.

STATEMENT OF MARY D. NICHOLS, CHAIRMAN, CALIFORNIA AIR RESOURCES BOARD

Ms. Nichols. Thank you, Chairman Inhofe, Ranking Member Boxer, members of the committee. Thank you for inviting me to be here. I am Mary Nichols, Chair of the California Air Resources Board, and I am honored to be here to support EPA's proposed Clean Power Plan, which we believe will unlock State innovation across the Country to protect our people and grow our economies.

The framework proposed by EPA is a workable, practical plan that will cut carbon pollution, along with other forms of pollution, with a focus on increasing energy efficiency and the use of cleaner domestic energy sources. It provides an opportunity for a better future.

This is a future that we are already working to create in California. Our success story has been one of bipartisanship. The 2006 California Global Warming Solutions Act was signed by our Republican former governor, Schwarzenegger, who appointed me to this position, and our Democratic governor, Jerry Brown, who has reappointed me and also, more importantly, has placed climate change at the core of his agenda, championing our enormously successful carbon market, ramping up green energy programs and working nationally and internationally to spread solutions that will protect our vulnerable citizens, our extremely valuable agricultural industry, our coastline and our forests against the

already-growing reality of climate change.

Californians overwhelmingly support our board's efforts to move California toward cleaner and more efficient sources of energy and to address the grave threat that global warming poses to America and to the world.

I am here today to share some of our successes with you and to emphasize that EPA is using its Clean Air Act authority in the way that it was meant to, to spread success across the Country and to encourage each State to develop its own plan to cut carbon pollution and to grow its economy.

I am going to skip some of what is in the prepared testimony, because I really want to focus on the fact that we believe that working together, not just as an environmental agency, but under the direction of our governor, with the Public Utilities Commission, and our Energy Commission, as well as the independent system operator that controls the transmission wires, we can deliver not only a more resilient energy system but we can also meet and even exceed the targets that EPA has set. We are on track for a third of our State's energy needs to be met by renewable energy by the year 2020. And Governor Brown has established a goal of getting to 50 percent of our energy from renewable resources by 2030.

Our carbon-wide carbon intensity has already fallen by nearly 5 percent since 2009, and it will keep falling. Now, that

is not only due to electrical power plants, it is also due to cleaner fuels and cleaner vehicles, which are an integral part of our plan. The power plan, the EPA power plan, is only one piece of the overall President's climate plan. But it is an important one.

But the main thing I want to emphasize is that this is happening at the same time that California is prospering. We are growing jobs. We are growing our economy faster than the rest of the Country. We have grown our jobs since the carbon market has gone into operation by 3.3 percent. Personal income and wages are up, again, growing at rates well above the national average. Our electric power grid delivers power reliably, resiliently and efficiently, thanks to the continued stewardship of the transmission operators. And as Senator Boxer indicated, power bills are actually down. Californians pay the ninth lowest electricity bills in the Country.

States all across the Country, and we do talk to many of our colleagues, are discovering that clean energy pays big dividends. For example, Oklahoma is on track to exceed its 15 percent renewable energy target for 2015, thanks to a very successful wind energy industry, a policy that has yielded billions of dollars in investment in that State and helped to cut pollution.

And of course, California and Oklahoma are not alone. We know that Texas, often billed as our rival in many ways, leads

the Nation in wind industry. Many States in the Midwest, as well as the West and the South, are taking action to ensure their ratepayers and their citizens against risks to reliability that come from dirty and inefficient coal plants by replacing them with cleaner power and energy efficiency investments are being used, again, in States red and blue, to cut power bills.

We think that the Clean Power Plan will encourage States to take broader advantage of strategies that they are already using, saving money and invigorating economies across the Country. And of course, to the extent that they choose to work together around their regional grids, they will do even better, because we all know that a regional approach will be more cost effective for all.

As a result, we believe the net benefits of this plan amount to something like \$48 billion to \$82 billion in 2030, representing lives saved, sick days avoided and climate risks abated, as well as greater productivity, lower costs and a more efficient and secure energy system.

So bottom line is, the Clean Power Plan builds on 40 years of Clean Air Act success, federalism, as the Chairman indicated, and now confronts us with an opportunity to address one of the most severe challenges of our time in a way that can also create new jobs and increase our energy security.

Thank you very much.

[The prepared statement of Ms. Nichols follows:]

Senator Inhofe. Thank you, Ms. Nichols.

Thomas Easterly is Commissioner of the Indiana Department of Environmental Management. You are recognized.

STATEMENT OF THOMAS EASTERLY, COMMISSIONER, INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Mr. Easterly. Thank you, Chairman Inhofe, Ranking Member Boxer and members of the committee. Good morning.

My name is Thomas Easterly and I am the Commissioner of the Indiana Department of Environmental Management, also known as IDEM. I bring you greetings from Governor Pence of Indiana, and I appreciate the opportunity to share with you Indiana's current perspective on the Environmental Protection Agency's 111(d) regulations for fossil fuel electric generating units.

The proposed regulations will detrimentally impact Indiana for a number of significant reasons. We are the most manufacturing-intensive State in the United States. More than 80 percent of Indiana's electricity comes from coal. We have a 300-year supply of coal in our State, and 28,000 Hoosiers are employed in the coal industry. We recognize that we need all forms of energy to power our economy, and the Pence administration is developing an updated energy plan for the State that will foster greater use of renewables and other energy sources. At the same time, we know that coal is a crucial Hoosier energy resource that must continue to be utilized.

IDEM's mission is to protect Hoosiers and our environment. Following the release of the proposed rule, my office carefully examined the proposal in light of our mission. We also engaged

private sector stakeholders and other State agencies in an extensive review of the proposal and its potential impacts. Our analysis came to only one conclusion. This proposal will cause significant harm to Hoosiers and most residents of the United States without providing an measurable offsetting benefits.

For those reasons, Indiana's Office of Energy Development, Office of Utility Consumer Counselor, Department of Natural Resources, Utility Regulatory Commission and my agency filed joint comments urging the USEPA to withdraw this proposal. A copy of the joint comments and a letter from Governor Pence that accompanied the joint comments has been shared with the committee.

The most ironic impact of the proposed regulations is that they are likely to increase worldwide greenhouse gas emissions by decreasing the international competitiveness of U.S. businesses due to increased energy costs. Competitive businesses have been investing in cost-effective energy savings activities for decades. Under this proposal, the total cost of the products produced in the United States will need to increase, eroding our international competitiveness and resulting in the loss of manufacturing jobs in Indiana and across the Nation.

When these businesses close, U.S. emissions will decrease. But worldwide greenhouse gas emissions will increase, as our businesses move to areas with less efficient and more carbon-

intensive energy supplies.

Indiana once held a competitive advantage due to our low cost of electricity. But not anymore. Indiana's low cost of electricity advantage has slipped and EPA regulations have significantly contributed to that change in position. The State Utility Forecasting Group in Indiana has forecast that a 30 percent increase in Indiana electrical costs, in part, from USEPA regulations already in place, and the 111(d) proposal will add additional costs on top of that 30 percent. USEPA itself predicts that its 111(d) proposal will increase the cost of natural gas and the cost per kilowatt hour of residential electricity by about 10 percent in the next six years. Furthermore, increases in energy costs hit the poor, elderly and most vulnerable in our society first. At a time when Indiana is doing all that it can to grow its economy and create jobs, the EPA's proposal creates a very real possibility that the increased energy costs will slow our economic progress and raise people's utility bills.

In Indiana, we are obviously concerned about the economic impact of EPA's proposed rules on business and consumers, but we have also filed 31 pages of technical comments. We want to make sure the rule does not result in unintended consequences, such as reduced reliability resulting in brownouts, or not yet having all of the necessary infrastructure in place to convert from coal to

natural gas. For purposes of due diligence, Indiana is evaluating all available responses to the proposed regulations from submitting a State plan to participating in a regional approach or simply refusing to comply at all, known as the just say no option.

However, the fact that this misguided policy will harm Hoosiers and other people in our Country while actually increasing the worldwide level of the very emissions it is designed to decrease compels Indiana to oppose the proposed regulations.

Thank you for the opportunity to share our views and I welcome your questions.

[The prepared statement of Mr. Easterly follows:]

Senator Inhofe. Thank you, Mr. Easterly.

Todd Parfitt is the Director of the Wyoming Department of Environmental Quality. You are recognized.

STATEMENT OF TODD PARFITT, DIRECTOR, WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

Mr. Parfitt. Good morning, Chairman Inhofe, Ranking Member Boxer and members of the Senate Environment and Public Works Committee.

My name is Todd Parfitt. I am the Director of the Wyoming Department of Environmental Quality. I thank the committee for inviting the State of Wyoming to share its perspective on the Clean Power Plan. The State of Wyoming has provided extensive comments to the Environmental Protection Agency on its proposed rule.

In Wyoming, we take great pride in how we manage our natural resources, providing for both environmental stewardship and energy production. As our governor, Matt Mead, has stated, it is a false question to ask, do we want energy production or environmental stewardship? In Wyoming, we must and do have both.

Wyoming sends electricity to both the eastern and western power grids, reaching from Iowa to Washington. Wyoming generated 49.6 million megawatt hours of electricity in 2012, with 66 percent of this electricity consumed beyond our borders. This electricity generation includes 88 percent coal and 9 percent wind.

EPA's proposal impacts States differently. Each State has unique characteristics and energy portfolios that drive the

application of each of the four building blocks. For Wyoming, the proposed goal is problematic and unrealistic to achieve. EPA is proposing a compressed time line in which States are to develop and submit their State plans. Considering the complexities of the proposal and developing a compliance plan, along with any needed State legislation, the time lines are problematic if not unrealistic. Wyoming's emission reduction required by 2020, which is 70 percent of the proposed State goal, is far greater than can be achieved through heat rate improvements alone. This disparity is often referred to as the cliff.

Wyoming's evaluation identified either data errors or incorrect assumptions in all four building blocks. I will focus on key concerns with block three, renewable energy, since it has the largest impact on Wyoming's proposed goal. One hundred percent of CO2 emissions from fossil-fueled power plants, regardless of end user, will be attributed to the energy-producing State. Sixty-six percent of electricity generated in Wyoming is consumed outside its borders.

According to EPA, renewable energy credits will be attributed to the consuming State, not the producing State. Eighty-five percent of 4.3 million megawatt hours of wind energy generated in Wyoming is consumed outside its borders. Yet when EPA calculated Wyoming's State goal, they applied a 6 percent

escalation factor to all 4.3 million megawatt hours generated in Wyoming.

More than half of the land in Wyoming is owned and managed by the Federal Government, subjecting many renewable transmission projects to NEPA. While the intent is good, the process is slow. A BLM high priority wind project took over four years for a NEPA decision. Now the Fish and Wildlife Service requires an additional NEPA decision. Two Federal fast track transmission projects in Wyoming are in their eighth year of the NEPA process. Both are still awaiting a final decision.

Finally, EPA's assessment of available land in Wyoming for wind energy development failed to consider high priority environmental conflicts such as greater sage grouse habitat, other designated critical habitats, and protected areas of cultural and historical significance. Factoring in these considerations reduces available lands for renewable, as proposed, by 83 percent. All of these factors lead to an unrealistic goal for Wyoming.

Now, directing your attention to the two graphs. Graph one depicts as a bar graph Wyoming's glide path as proposed by EPA.

Senator Inhofe. Which one is one?

Mr. Parfitt. Graph one is on your right.

Graph one depicts a bar graph of Wyoming's glide path as proposed by EPA. One can observe the dominant influence of the

renewables component as shown in green.

After review, Wyoming determined what is practically achievable, given EPA's proposed avenues. This is shown in graph two. The line in the graph represents Wyoming's carbon emission requirements according to EPA's analysis. The colored bars were derived through extensive analysis by the State, representing what may be possible in Wyoming.

As can be seen, there is a wide gap between EPA's and Wyoming's analysis. Based on the proposed goal and with limited options, the simplest illustration to show an avenue for Wyoming to meet the initial 2020 goal is to consider how many coal-fired power plants must be closed. This would result in four plants closing, representing nearly 4,200 megawatts of the State's total coal fleet of over 6,700 megawatts. Stranded investment for these four would be nearly \$1.5 billion, and does not include the cost of replacement power.

We look forward to continued dialogue with EPA and the other States as EPA considers our comments and reconsiders their proposal. Thank you for allowing me to provide input to your committee.

[The prepared statement of Mr. Parfitt follows:]

Senator Inhofe. Thank you, Mr. Parfitt.

Ellen Nowak is a Commissioner, Public Service Commission of Wisconsin. You are recognized.

STATEMENT OF ELLEN NOWAK, COMMISSIONER, PUBLIC SERVICE COMMISSION
OF WISCONSIN

Ms. Nowak. Good morning, Chairman Inhofe, Ranking Member Boxer and members of the committee.

Thank you for the opportunity to speak on behalf of the State of Wisconsin and provide you with a summary of our State's assessment and concerns with the EPA's Clean Power Plan.

My name is Ellen Nowak. I am the chairperson for the Public Service Commission of Wisconsin. Last fall, I was intimately involved with the construction of the comments that the State of Wisconsin submitted to the EPA. I submitted those comments, together with our analysis, with my written testimony for the record.

Wisconsin is a manufacturing-heavy State, with industrial customers representing over one-third of energy sales. More than 60 percent of our State's power generation comes from coal. If the problems in the Clean Power Plan are not remedied, the work Wisconsin has done to restore our manufacturing sector will be threatened.

As a regulator, I also remain concerned about the reliability of the grid, considering the dramatic, fast shift in energy production required by this proposal. With that background, and because of the far-reaching impacts of the EPA's Clean Power Plan, we brought together an interdisciplinary team.

This team consisted of public service commission experts in utility rate modeling, economics, environmental regulation and engineering, along with department of natural resource experts in environmental regulation, particularly the Clean Air Act. Using a standard accepted utility modeling program, we forecasted the cost of this regulation under a number of scenarios with varying assumptions about the future.

Candidly, our team felt that taking into account the impacts of this regulation on every family and every business in the United States is the kind of analysis that should have been done by the EPA before making such a proposal. The results of our analysis have been provided to the committee. Here are two highlights.

First, this single Federal regulation will cost Wisconsin ratepayers between \$3.1 billion and \$13.4 billion. This is only a production cost increase. It does not include necessary upgrades to the gas and electric transmission infrastructure that will add significantly to the cost of compliance. These costs are also on top of the \$11.6 billion in carbon dioxide reduction measures that Wisconsin ratepayers have paid for since 2000. Not only do we not receive credit for these investments under the Clean Power Plan, but the proposal actually penalizes Wisconsin for being an early actor.

Second, as our assumptions about this rule became more

realistic, the cost rose. For instance, would you assume that this massive increase in reliance on natural gas would drive natural gas prices higher? That very reasonable assumption significantly raises the cost of this regulation.

At the heart of the matter, we question the very foundation of this proposal. The EPA constructed four building blocks, each of which was evaluated independently. Then to determine the foundation for each State's target reduction, the best system of emission reduction, or BSER, they added the carbon dioxide reductions resulting from each of those individual building blocks.

Unfortunately, EPA ignored how the building blocks would affect each other when all four were implemented together. For example, increasing reliance on natural gas, as suggested by building block two, would severely decrease the heat rate improvement achievable in the coal fleet to far below the 6 percent required under building block one.

Furthermore, EPA used indiscriminate and unsupportable approaches to determine the four building blocks. For example, building block one applies a national level heat rate improvement to each coal-fired plant, regardless of the ability of an individual plant to realize these gains. In contrast, building block three, the State renewable goals, takes a regional approach and is driven by the average renewable portfolio standards found

in States arbitrarily grouped together.

As it is currently written under any previous interpretation of the Clean Air Act, the BSER system proposed by the EPA is actually not a system at all. First, the building blocks are outside the coordination and control of the emission unit owner or operator. Second, they are not recognizable systems of work or practice or control that can be applied to an emission unit. And third, they cannot guarantee a certain, conclusive greenhouse gas emission reduction when implemented as a whole.

To further highlight this point, engineers at the Public Service Commission modeled the EPA plan and concluded the building blocks would deliver a 15.6 percent reduction in carbon dioxide emissions. This is a far cry from the 34 percent that the EPA claims is attainable and necessary for Wisconsin to comply.

Finally, the compliance timelines in the proposal are unrealistic and unworkable. The lead time required for planning, permitting and construction, not to mention the EPA's own requirements, will require the full proposed compliance period through the end of 2030.

In conclusion, I sincerely appreciate the opportunity to speak to this esteemed committee today. You will find my submitted written testimony delves much deeper into the issues of modeling and the technical aspects of the rule that we find

troubling.

We can all agree on the need to protect our environment. But this proposed rule does not strike the right balance in protecting public health, reliability of the grid and economic security. Thank you very much.

[The prepared statement of Ms. Nowak follows:]

Senator Inhofe. Thank you, Ms. Nowak. The end of your remarks answered the first question I was going to ask you, the problem that if you submitted a SIP in compliance with building block one, and yet they came along and say, no, we have to have a FIP, a Federal program for two, three and four, would that create a problem. I think you adequately answered that.

But very similarly, I would like to ask you, North Carolina proposed to delay the Clean Power Plan until a final ruling by the courts on the plan's many legal uncertainties. If you remember, during our budget hearing, the administrator of the EPA talked about, I think it was \$3.5 million to hire a bunch of new attorneys because of all the lawsuits and problems. I would ask you, in your State of Wisconsin, you could end up taking steps to comply with the Clean Power Plan that the State came back and found that it was ultimately out of compliance. So what kind of problem would that be for Wisconsin?

Ms. Nowak. It creates a lot of uncertainty. As a regulator, the parties we regulate, ratepayers all want and deserve certainty about where rates are going to go and what we may do. When we become commissioners, they don't give us crystal balls. So unfortunately, we can't look into the future. But we have to make the best decision, based on the information before us.

We ran into a similar issue with the Cross State Air

Pollution Rule, when it was hung up in the courts, and utilities were starting to make movements to attempt to comply. We have to do the best to allow them to try to recover. But we have to be judicious, obviously, in spending ratepayer dollars. So we will work closely and obviously monitor the legal proceedings and any legal proceedings that Wisconsin is involved in, so we don't unnecessarily spend ratepayer dollars.

Senator Inhofe. Mr. Easterly, in your written testimony you talked a little bit and elaborated a little bit more on how the Clean Power Plan proposal could actually increase, increase the cost. This is an increased amount of emissions, and this is a position that I have held ever since Lisa Jackson said that doing something unilaterally in the United States is not going to affect it. Because this isn't where the problems are, as you saw on this chart, with China.

Did you want to elaborate any more on that concept about that, could it increase instead of decrease emissions?

Mr. Easterly. Most of our businesses, the basic bottom of our economy, the steel industry, the auto industry, rely on energy costs. And they are internationally competitive. So you can buy steel from Brazil, you can buy steel from India, you can buy steel from Russia and use it. Actually, why would you bother to bring the steel to the United States? You just bring the finished product here.

So the emissions will happen in those countries. Some of those countries have decided to, I understand China signed an agreement to consider stopping the growth of their emissions by about 2030. But between now and 2030, those emissions, they are so much higher per unit of production than we have here. So as our businesses have to stay in business by being internationally competitive, I am very concerned that total emissions will go up.

Senator Inhofe. All right. Thank you very much.

Ms. Nowak, have you done an analysis as to how much of a rate increase would the PSC have to approve to implement this plan?

Ms. Nowak. We expect it to be in the double digits, depending on which method of compliance we use. It could be easily into the upper 20 percent of an increase.

Right now, we have an aggregate number of a \$3 billion to \$13 billion for the State to comply. How that is eventually broken down on a per ratepayer increase is something that will be fleshed as we know more details and utilities come in and ask for recovery. But this is going to be a significant increase on ratepayers all across the board, low income to our large manufacturers.

Senator Inhofe. Thank you.

I am going to be asking you for the record, Mr. Myers, or if there is time at the end of my six minutes, if you would agree

with the position that many have taken, that wouldn't it be better to wait until these controversial legal issues are cleared up before requiring them to comply? I hope we have time, because I do want to hear your answer to that.

So I would say to Ms. Nowak, Mr. Easterly and Mr. Parfitt, what parts of the Clean Power Plan will require enactment of new laws in your State, and how long would it take to develop, pass and implement these laws? Let's start with you, Mr. Parfitt.

Mr. Parfitt. Mr. Chairman, as far as legislation that may need to be put into place, anything that would relate to a multi-State plan, if there were to be one developed, would certainly need some legislative discussion. Anything dealing with a renewable portfolio standard, basically the building blocks three and four would likely require some sort of legislation.

Now, the timing of that, our legislature meets for a 40-day session and then a 20-day session. So, alternating. Our next session coming up is a budget session. So there are some timing concerns related to when something could be brought forth to the legislature in a meaningful way through an interim topic study as well.

Senator Inhofe. All right. Mr. Easterly?

Mr. Easterly. So, in Indiana, our legislature also doesn't meet year-around. So the next time they could consider things is 2016. We don't have authority for building blocks two, three and

four. And then if I have to pass rules, we have an 18-month rulemaking process. We will be years out.

Senator Inhofe. Any further comment?

Ms. Nowak. We have at least a three-year rulemaking process on a controversial rule, which I would submit this would be one. And we would also have to change, we don't have authority over building blocks three and four. If we were to increase our RPS, or change our energy efficiency standards, those would all require legislative action as well, which adds to the timelines.

Senator Inhofe. Thank you. Senator Boxer?

Senator Boxer. Thank you so much.

What I am stunned by is some of the States' attitude of gloom and doom when we have States that are doing this prospering far more than your States. That is what kind of stuns me. But it is okay, I respect your view.

I want to ask Mary Nichols this question. When you listened to Mr. Easterly respond to my chairman, in where they said, well, actually, these rules could mean that we would be increasing carbon worldwide, because some companies will leave the States, they will be so upset at these rules. Have we found companies running away from California? Last I checked, Silicon Valley was booming. We have increases in manufacturing. Am I wrong on the point?

Ms. Nichols. You are not wrong, Senator Boxer. We have

experienced growth across the board. But particularly in the clean energy sector in California, because of our policies. We are the leading State in terms of investment in clean technology, and also in renewable energy in the Country right now. Solar energy in particular is building.

Obviously we have some natural advantages in California in terms of renewables. And I think it is important to say that there needs to be transition time for all industries and all States. When we implemented our cap on carbon emissions with a trading program, there were many who were concerned about the rising costs of electricity to our manufacturing sector. It is a critical concern for everybody, along with reliability. No State, no governor can afford to take risks with the lights going out in their State. That is job one. No matter how much we care about the environment or greenhouse gases, and we do, profoundly, we know that our job is also to make sure that the lights stay on.

So I think it is important to recognize that this proposal that EPA has put out does have within it the flexibility and the time that is needed. I recognize the concerns of my fellow States, and I think they are legitimate concerns. But I would assert that the proposal, as EPA has put it out, which admittedly they will be modifying as they go forward, can address those concerns.

Senator Boxer. I think that is such an important point. Because you make it very clear that we need transition time. And we started a little earlier. I think EPA does get that, Gina McCarthy does get that. She is very sensitive to the States.

Mr. Myers, I wanted to ask you, last year former EPA Administrator Christy Todd Whitman, who served under George W. Bush, testified before our Clean Air Subcommittee that it was settled law that the Clean Air Act can be used to control carbon pollution. Are EPA's proposed carbon standards supported by the three Supreme Court decisions in *Massachusetts v. EPA*, 2007, *American Electric Power v. Connecticut*, 2011, and *Utility Air Regulatory Group v. EPA*, June 23rd, 2014?

Mr. Myers. Yes, they are, Senator. The *Massachusetts v. EPA* case, as you may recall, recognized that EPA has the authority under the Clean Air Act to regulate greenhouse gas emissions. And the *Connecticut v. American Electric Power* case was a case that New York was involved in, where we sought to get the very same emissions that the EPA Clean Power Plan is going to get at. The Supreme Court in that case told us that Federal common law nuisance did not apply, because Section 111 speaks directly to these power plant emissions.

And with respect to the last decision, the UARG decision that you mentioned, the Supreme Court again reaffirmed EPA's authority under the Clean Air Act to regulate greenhouse gas

emissions, and there found that under the Act's stationary source permitting program, if you are emitting a certain amount of conventional pollutants, then you also have to apply the best available control technology for CO2 emissions.

So I think all told, those decisions provide a sound foundation for EPA's Clean Power Plan.

Senator Boxer. Thank you, Mr. Myers.

Mr. Parfitt, last month the Chief Environmental Counsel at Berkshire Hathaway Energy, which owns a dozen utilities across the Country, including Rocky Mountain Power, a regulated utility serving Wyoming, stated about the State's compliance with the Clean Power Plan, and I would like to get your reaction to that, "If the State wants to push back against the plan, that is okay. But we really do have to have a backup plan, because if not, we will be caught in a situation where we don't have any option, and that is the worst of all positions to be in."

She also stated the Clean Power Plant's 2030 targets are achievable and urged Wyoming to collaborate with other States to meet them.

Do you agree with Rocky Mountain power that Wyoming would be best served by completing a State compliance plan?

Mr. Parfitt. I can't speak specifically to the comments of Rocky Mountain Power. But what I can say is that our evaluation, when we look at the entirety of the plan, it doesn't work for

Wyoming. Because as shown in the charts that we displayed, the options, the building blocks as presented by EPA in the proposal don't work for Wyoming. So we would say that no, the plan doesn't work. We have more than one utility within the State.

Senator Boxer. I totally appreciate that. Last question. Have you told EPA your concerns and have you given some options to the EPA? Because they really want to work with the States. Have you let them know how you feel and specifically what is wrong with what they are doing for Wyoming?

Mr. Parfitt. Yes, we have provided comments from both the DEQ and Public Service Commission, and have had discussions since the comment period.

Senator Boxer. Good. Thank you.

Senator Inhofe. Thank you, Senator Boxer. Senator Rounds?

Senator Rounds. Thank you, Mr. Chairman.

During the time that we were on the campaign trail this last year, and I am new to the committee and new to the process up here, one of the items that we talked about a lot was the anticipated cost to the average American family with regard to an increase in their costs for electric rates. The United States Chamber of Commerce, last summer, I believe, estimated the average cost to the average American family to be approximately \$1,400 more per year in their electric rates.

I was curious, Mr. Parfitt, in a recent statistic that comes

in the case of my State, South Dakota, that our electric rates would increase probably about 20 percent or more as a result of the Clean Power Plan, this is significantly than the 8.8 cents per kilowatt hour that South Dakotans pay now. According to the Wyoming Public Service Commission, compliance costs for the 111(d) proposal could well exceed \$50 per ton of carbon.

What impacts will this have, not only on ratepayers in Wyoming, but also on ratepayers in surrounding States? I know that people in South Dakota receive power from Wyoming. Wyoming, as you indicated earlier, supplies power, because of your location to the natural resources available, you are an exporter of power. Could you share a little bit about what effect this will have on the rates for people in the other States as well?

Mr. Parfitt. Yes. We do provide power to many other States. If our compliance path, as we have viewed it, based on the proposal, results in the premature closure of plants and the stranded assets, it would likely result in raising of rates for all the customers, not just those in Wyoming. It would be shared across the network.

Senator Rounds. What does the EPA propose or how does the EPA propose that you respond to those stranded costs? What is their expectation?

Mr. Parfitt. This is an issue that we had raised with EPA before the proposal was put out to notice, in hopes that that

would be taken into consideration. In our view, that hasn't been taken into consideration and we don't see, at least at this point, the off ramp. We have expressed this concern to EPA in our comments. So we are waiting to see how they might respond in June when they come out with the final proposal.

Senator Rounds. So you have not had a comment back, or there is not a process within this to get a response back for the stranded costs that you have indicated our State would have, and would have to pass on to other States that also expect the electricity or the places where your organizations have contracts with them to provide ongoing electric power, those stranded costs? You don't know how those would be handled?

Mr. Parfitt. At this point, EPA has not conveyed to us how they would address that particular comment. The conversations that we have had with EPA have been primarily to get clarification on some of the corrections that we pointed out within the proposal itself.

Senator Rounds. The EPA claims that the rules give States flexibility to create their own plans. But it appears that it overlooks the fact that electricity transmission does not stop at State borders. Many States, including South Dakota, depend on neighboring States to help support their own electricity generation and ensure the reliability of the grid. EPA's modeling suggests that under the 111(d) proposal, Wyoming could

cut its generation by 7.5 million megawatts, or million megawatt hours. How will you continue to power the regional economy with cuts like this, and is that an accurate statement?

Mr. Parfitt. As far as how we would continue, if we were looking at closing down existing power plants, that would create a reliability issue. However, this is getting a little bit out of my expertise, within the expertise of the Public Service Commission in terms of how to maintain the reliability of service to all of its customers.

Senator Rounds. Thank you, I appreciate your time. Mr. Chairman, I yield back.

Senator Inhofe. Thank you, Senator Rounds. Senator Carper?

Senator Carper. Thanks, Mr. Chairman.

To each of you, welcome. I am glad to see you. Thanks for what you do and thanks for sharing your thoughts with us and responding to our questions.

My colleagues know I come before many of these issues not as a sitting Senator but as a recovering governor. I want to share with you a little bit of a perspective from the little State of Delaware, from a guy who was born in West Virginia, a guy who was a coal miner for a little bit of time. So I come with a lot of different perspectives.

When I was governor of Delaware, I could have shut down the economy of my State in order to try to be in compliance with the

clean air standards. And we would have been out of compliance. The reason why is the folks who were creating cheap electricity to the west of us, some of them put bad stuff up in the air and it came our way. We are at the end of America's tailpipe, similar to Maryland, Pennsylvania and New Jersey, New York.

I am a big believer in the Golden Rule, treat other people the way I want to be treated. The concerns that you are laying out here for us today, I think they are important concerns and we have to be mindful of them. I get it. EPA needs to be mindful of them as well. But I just want you to know that there are other folks who have been adversely affected by the ability of some people in our Country to develop cheap electricity, dirty electricity, and we suffer the consequences. I don't like it. We haven't liked it. We tried to go to court to resolve that and we finally have succeeded in doing that.

I want you to get in a car with me, use your imagination. We're in southern Delaware. We are driving on Prime Hook Road to the east, to the Delaware Bay. We get to the Delaware Bay. There used to be a parking lot there, a big parking lot there. It is not there anymore. Well, actually, it is; it is underwater. You look off to the right, you will see a bunker sticking up out of the water, about 500 feet out. That used to be about 500 feet on the land, now it is 500 feet out in the water.

Something is going on here. We can't just make this stuff up. And the key is for us, is how can we have cleaner air, how can we address the issues of rising waters? Delaware is the lowest-lying State in the Country. It is a real problem for us. And in order for us to address this, we need to figure out how to do it together. I am not interested in seeing EPA jam anything down your throats. But we need to figure out to work on this together.

One of the issues is, why are we creating a lot of electricity? It sounds like you export a lot of electricity. My understanding under the rules that are being contemplated here, you don't get a lot of credit for that. And the credit, I guess, goes to California and those other States. We have to be able to figure out how to deal with that. We ought to be able to use some common sense in figuring out how to deal with that.

I want to ask a question of the lady from California. It sounds to me like your economy is doing pretty well. And the question of can you have a cleaner environment and a stronger economy, I think you have answered that. We think the answer is yes, you can. I think it is a false choice. I think most of you at this table would agree with that.

There are a couple of things the folks from California, you are in a situation where you acted early, you have been a good citizen, a good steward. And my sense is you are going to be

punished for it, if we are not careful, by EPA. We are in the same situation. We don't like that. What do you think we should do about it?

Ms. Nichols. I think your comment earlier about States needing to work together is exactly correct. To my friend from Wyoming, my local utility, the Los Angeles Department of Water and Power, just concluded a very large agreement with a Wyoming wind company to import wind-generated electricity from Wyoming to help replace some of the coal-fired energy that they have been relying on. They are actually taking responsibility for being the largest emitter in our State, even though the electricity that we were using was coming from Utah, as it happens. And there will be costs associated with transitioning away from the coal and into the wind.

But overall, the net of it is that Los Angeles ratepayers will still be doing okay, because the utility is taking steps to help their customers become more efficient in their use of energy. That I think is kind of the critical ingredient here, that if our rates go up because of new investments that we are making, that has to be offset in order to shield the ratepayers from rate shocks and from things that would just make it untenable for them to move forward on this cleaner electricity plan that we are on.

But given some time for the transition, we can do it. I do

think that it was right to come up with a crediting mechanism. I think EPA needs to do this if they want to encourage regional cooperation as they say they do. They are going to have to allow States to work together on either a bilateral or regional basis to come up with programs where they can effectively share the cost and the benefits.

That is what we are doing right now through our agreement with the Canadian province of Quebec, where we now run literally a bi-State, bi-national trading program with emissions allowances. Obviously, not everybody is going to want to go that far afield. But the concept, I think, is one that has been proven to work.

Senator Carper. Thanks. Very briefly, can each of you just give me what you think is a fair compromise to the issue of Wyoming generating all this clean electricity by wind and shipping it off to California and other places, not really getting the credit for it? It sounds like the credit, as I understand it, goes to California or the other States that are the customers. What is a fair way to deal with this? What is a fair compromise? Ms. Nowak, very briefly.

Ms. Nowak. I didn't fully understand your question.

Senator Carper. Mr. Parfitt, can you try to answer this? It certainly pertains to you.

Mr. Parfitt. As it pertains to the Clean Power Plan, I

think there are two issues, or actually three issues at play. The first is the attribution of fossil fuel emissions, CO2 emissions, being attributed 100 percent to the energy-producing States.

Senator Carper. Right.

Mr. Parfitt. The other issue that is at play here is the renewable energy that is generated in Wyoming, which most of it, 85 percent of that, is shipped out of State.

Now, applying an escalator to that, 100 percent of that to the producing State, is unfair and I think it is a disadvantage.

Senator Carper. Mr. Chairman, I will say this. We have to figure out a good compromise here, and you all have to help us. Thank you.

Senator Inhofe. Thank you, Senator Carper. Senator Capito?

Senator Capito. Thank you. I would like to thank the panel, thank the Chairman and Ranking Member.

Let me just say a few words about my home State of West Virginia and what we have had to say about the Clean Power Plan. Our own DEP has called it patently illegal, invading the province and it has been put forward with the finesses of a bull in a china shop. I would note in the comments that 32 States have submitted negative comments, or comments of great concern to this rule, while the numbers that have submitted comments in support are much, much smaller in terms of States.

But I want to talk about the reliability issue. West Virginia has joined with other States, probably several of yours, to block this plan, and we will be hearing this suit in the next several months. And the DEP in West Virginia has said that these goals are unattainable. We have heard some testimony to that.

With that in mind, I would like to talk to Mr. Easterly, because we have a lot in common in terms of your production of your electricity, predominantly with coal. We have 95 percent of our electricity is generated by coal, for obvious reasons. We have a lot of coal, although not as much as Wyoming.

So EPA has indicated that it does not have any significant concerns about reliability with this rule. Yet last week, PJM Interconnection released a new analysis that found that the Clean Power Plan could trigger up to 49 gigawatts of generating capacity in jeopardy. Let me just quantify, 49 gigawatts is the equivalent of the electricity that is used to power 50 million homes. This is one of the studies that was recently released that I think calls into question the reliability issue.

Are you concerned about reliability in Indiana? I would note that Ms. Nichols did mention the reliability issue as a very important one for the state of California. I would like to hear your comments on that.

Mr. Easterly. Yes, we are. We have another group that deals with the reliability. But here is our fundamental problem.

The plan, even in EPA's best thought process, has significantly more fossil fuel-fired reductions by closure than it does new generation of renewable and wind and other things. So the plan necessarily will reduce the flexibility of our electric supply in the United States. You add this to the fact that we have had record PJM demand days, they are a little better handled this year than they were last year under the polar vortex. And we are in PJM and MISO.

So we have increasing demand, we have decreasing supply. And the renewable supply is valuable, but it is not reliable. So sometimes the wind is blowing, sometimes it is not. Sometimes the solar panels don't have clouds or snow on them and sometimes they do. So you can't count on them for either thing, for their nameplate capacity is much higher than their actual generation. And they are not always available when you need them.

So I am very concerned, as are a lot of people in the industry, that we will see some catastrophic result some time during the implementation of this plan. We just don't know where or when.

Senator Capito. Ms. Nowak, do you have a comment on that, the reliability issue?

Ms. Nowak. Certainly. We have some significant concerns. From the perspective of system reliability, the modeling program used by the EPA to evaluate the building blocks and whether the

goals are actually achievable uses less robust data than possessed and used by our own RTO, MISO. And so they are responsible for maintaining our grid. Unfortunately, the EPA never asked MISO to do any studies of the grid prior to releasing this proposal.

Examples of the work that we think needs to get done includes gathering information about firmness of the interstate pipeline deliverability for gas-fired units, plans for replacement of units, the impact on the increase of intermittent renewable resources on reliability, and considering the electric grid location and network deliverability of units to be expected to be retired. Again, the modeling used by the EPA doesn't appear to consider any of these very fundamental and necessary factors. So we are concerned.

Senator Capito. I would note in my State we are heavily reliant on coal for obvious reasons. But we also have a lot of natural gas. But to transition these older plants to natural gas is just not a realistic endeavor. It is exceedingly expensive. And to build new ones takes a lot of time and a lot of energy. You are going to expend energy to move forward on this as well.

You have also just recently closed one of your nuclear plants in Wisconsin. And your plan that was put forward for you under this Clean Power Plan does not take into consideration your loss of nuclear power. That has to be a problem for you, too, in

terms of meeting this challenge. Would you make a comment on that?

Ms. Nowak. Sure. The loss of that plant is huge for Wisconsin. We think that eventually that is going to have to be replaced with a carbon neutral source. That was not taken into account, and that will increase the cost of this proposal for Wisconsin to comply.

Senator Capito. Ms. Nichols, let me ask you a quick question. We had a hearing last week on ozone and the new regulations that are going to be put into effect. Is every county in California compliant with the current ozone regulations that we have presently?

Ms. Nichols. No, Senator, we are not. We have remaining challenges in both Southern California and in the Central Valley meeting the ozone standards. And the new ozone standard will add an extra challenge, as well as some extra time to that effort.

Senator Capito. So you put that on top of what we are doing here with the Clean Power Act.

Ms. Nichols. We care about the health of our citizens, Senator.

Senator Capito. I care about that as well.

Ms. Nichols. We rely on the science.

Senator Capito. In terms of how we are going to meet this challenge, in terms of our timelines, extension of timelines,

extension of measures? What is going to be the best, Mr. Parfitt, for Wyoming? What is going to be the easiest thing to knock down on this Clean Power Plan that is going to make the biggest impact for you to be able to meet the challenges? Deadlines, timelines? Lower standards, less reductions?

Mr. Parfitt. Certainly timelines are a big component of this when you consider developing a plan and the time involved with that and the complexities and the amount of agencies and States that would have to be involved in that discussion, let alone the legislation and rules that we have already mentioned here and the time that would take would seem to be very problematic.

Senator Capito. Thank you.

Senator Inhofe. Thank you, Senator Capito. Senator Merkley?

Senator Merkley. Thank you very much, Mr. Chair.

Underlying this entire discussion is the challenge we have with carbon pollution, methane pollution and the impact it is having across the world. But we don't have to look across the world, we can look to my home State of Oregon. And indeed, we are seeing that the fire season has grown by 60 days over the last several decades, and the number of acres of forest that has been burned has increased dramatically. We have an oyster industry that is having great trouble because the baby oysters

have trouble forming shells because the ocean is 30 percent more acidic than it was before the Industrial Revolution.

We have a farming community that is suffering significant, repeated, worst ever droughts because the snow pack in the Cascades is steadily declining. And this year is one of the lowest ever. While rain earlier in the year can fill a reservoir, if you don't have the snow pack, come August, you are in trouble.

So as we see this impact on farming and fishing and forestry, right now, we are not talking 50 years in the future or 100 years in the future, we are seeing it right now, just like Delaware. Senator Carper was talking about land that is now underwater. Should the entities that are being damaged by carbon pollution be able to sue those who are generating the carbon proportional to their contribution? Mr. Easterly?

Mr. Easterly. I am not a lawyer, so I can't answer should somebody be able to sue. But remember that the environment of our earth has been changing for all of recorded history. Indiana used to be under a huge ice sheet. There are natural variations. And the things you talked about, some scientists would say, are due to the Pacific Decadal Oscillation. And they are likely to continue causing harm for the next 20 years.

Senator Merkley. Thank you, Mr. Easterly. Mr. Parfitt, would you like to answer?

Mr. Parfitt. I would echo those comments. This is a legal question and I am not an attorney that can address that.

Senator Merkley. Okay, a legal question. But the principle, you understand, of polluter pays, when you do some damage to your neighbor, shouldn't you bear some responsibility just as a basic fundamental principle?

Mr. Parfitt. I think this is a complicated question. You have users who may have some responsibility as well. So from a legal standpoint -

Senator Merkley. Okay, you don't want to answer the question. That's fine. Ms. Nowak?

Ms. Nowak. If the utilities and entities are following existing law and regulation, I would think it would be a very chilling effect to have them subjected to legal claims.

Senator Merkley. Okay, well, everyone in their first year of economics learns about externalities, things that are not reflected in the market, damage done by activities, certainly our libertarian friends would say, when you do damage to your neighbor, you should compensate for that damage. The fact is, carbon is produced and methane is produced in a million different ways. There is no State that doesn't produce a lot of both.

But we are seeing a differential in how States are taking this on. Oregon, now, about 70 percent of its electricity is produced in non-fossil format. And Ms. Nichols, you were

referring to a 2020 goal of one-third. But that didn't include your hydropower, I believe. What is it with hydropower included?

Ms. Nichols. If we included the hydro that we receive, we would be already at above our 30 percent, 33 percent goal. So we chose not to add it, or the legislature chose not to add it or nuclear, because they were trying to really push for new solar, wind, geothermal and biomass energy.

Senator Merkley. Right. Say what that percentage would be again if those things were included, the other non-fossil. If you include the other non-fossil.

Ms. Nichols. It would be about 40 percent.

Senator Merkley. Forty percent.

Ms. Nichols. Yes.

Senator Merkley. Well, you have to aim for Oregon, where it is 70 percent. We are shipping a lot of wind power out.

Ms. Nichols. We envy Oregon.

Senator Merkley. And we often respect greatly the examples that you are setting, particularly here is, you have set up a marketplace. Now, if we turn back in time, there was a proposal that came really from right wing think tanks about using markets to regulate sulfur dioxide to take on acid rain. And the concept was not to regulate every smokestack, but to proceed to set up the marketplace and therefore the most cost effective solutions would be adopted. How did that work out? Do you have a memory

of that?

Ms. Nichols. Senator, I was the assistant administrator at EPA when we implemented the acid rain trading program. I am very proud of the success of that program. It did reach its goals in terms of the amount of sulfur dioxide that was reduced, and it did so less expensively. We relied on that plan in designing our cap and trade program in California.

Senator Merkley. So the marketplace for sulfur dioxide worked extraordinarily well, actually, lower costs and faster results than anyone anticipated. It was really an off the chart success, and congratulations. Why wouldn't that same strategy work well in carbon dioxide?

Ms. Nichols. Well, we believe it would. It was, as you know, defeated here, but within California it was actually put on the ballot and the voters chose to keep that system in effect. Because I think they became convinced that it would lead us to a cleaner future.

Senator Merkley. It was, you see carbon dioxide reduced in the most effective manner, to achieve similar off the chart positive results.

Ms. Nichols. Yes, sir.

Senator Merkley. And isn't the Clean Power Plan really based around that same core principle of States developing their own plan through a range of different choices of how to address

carbon? Not quite a cap and trade, but that is a possibility that the State could employ.

Ms. Nichols. It is clearly allowable. It is not required. I know that EPA was very familiar with our program when they designed the rule. But I also understand that they tried really hard, it doesn't seem like they have quite succeeded just yet, anyway, to indicate to States that they would have the ability to design a plan that fit their own unique situation.

Senator Merkley. Thank you very much.

Senator Inhofe. Thank you, Senator Merkley.

Senator Barrasso would be next, but he has graciously conceded to let Senator Boozman go ahead.

Senator Boozman. Thank you very much. Again, just for a second, but I appreciate it.

Ms. Nichols, following up on Senator Merkley's question, you are out of compliance for ozone. And the EPA's regulatory impact analysis says the annual cost to California alone would be \$800 million to \$2.2 billion per year. Do you feel like individuals should be able to sue you for non-compliance?

Ms. Nichols. Under the Clean Air Act, citizens have the ability to sue EPA, or indirectly, the State, for non-compliance with any element of a SIP. California has submitted a State Implementation Plan and we are in compliance with our plan. We are moving forward steadily every year, bringing down our levels

of ozone. And we have actually come into compliance in many counties.

Senator Boozman. So your argument, then, is the same as Ms. Nowak's in the sense that if you are doing things as required by law, then you shouldn't be sued?

Ms. Nichols. One of the reasons why we are here to defend the carbon plan, the EPA plan, is that it helps us with our ozone standard as well. We need all the help we can get.

Senator Boozman. But in regard to the question, you agree with Ms. Nowak in the sense that if you are in compliance with what the regulation requires, you shouldn't be sued?

Ms. Nichols. Mr. Boozman, I went to law school, too, and we were taught that anybody can file a lawsuit.

Senator Boozman. I didn't go to law school.

[Laughter.]

Ms. Nichols. Anybody can file a lawsuit and sometimes they win.

Senator Boozman. I guess what I am saying, what she is saying is, that really would wreak havoc in the sense, there is no way that you are going to be -- when do you feel like you are going to be ozone-compliant?

Ms. Nichols. At this point, we are projecting off into the future, we are working as hard as we can, but it will probably be as challenging, it not more challenging, to meet the ozone

standard as it is to meet the greenhouse gas standard. That is exactly why we are supporting the EPA rule, because it will help us with both.

Senator Boozman. Do you agree it will cost you \$800 million to \$2.2 billion a year?

Ms. Nichols. I can't verify that number. I would say, though, that the economic analysis that EPA did in advance was using all the tools that we would have used in the same way.

Senator Boozman. Good. Thank you, Mr. Chairman.

Senator Inhofe. Thank you, Senator. Senator Whitehouse?

Senator Whitehouse. Thank you, Chairman, and thanks very much to the panel for being here.

Let me ask first, Commissioner Nowak, in 2013, Commissioner Nowak, the Milwaukee Journal Sentinel published an editorial in your home State that said, "Climate change is happening. Human activity plays a huge role in that. The consequences of doing nothing could be dire and expensive." Do you agree with the Milwaukee Journal Sentinel on that?

Ms. Nowak. Thank you for the question. My role as a regulator or an economic regulator, we ensure also the reliability of the grid, I did not or do not endeavor to take on the policy behind what is before us. My role here has been analyzing it and rules that come before us. I look for three things. An environmental rule is coming; does it compromise the

affordable, the safety and reliability of our grid. That is the lens that I look through this rule.

Senator Whitehouse. No amount of environmental cost would figure under your analysis, then?

Ms. Nowak. No, that is not what I said.

Senator Whitehouse. That is exactly what you said. I am just trying to make sure that you put it properly and want you to explain further.

Ms. Nowak. No. The environmental rules cannot unduly compromise the reliability of the -

Senator Whitehouse. No matter how great the environmental cost?

Ms. Nowak. There is a balance that needs to be struck.

Senator Whitehouse. How do you strike that balance if you don't know whether climate change is happening and whether human activity plays a huge role in that and whether the consequences of doing nothing could be dire and expensive, which I assume dire and expensive are words that would fit into that calculus?

Ms. Nichols. We look at what the impact on our ratepayers would be and the benefits to the environment under the proposed rule.

Senator Whitehouse. But the impact on your ratepayers could be felt through climate change as well as through just the rates that they pay, could they not?

Ms. Nichols. Those are -

Senator Whitehouse. That is not a part of what you looked at? That is not part of your analysis?

Ms. Nichols. The benefits have been put forth by the EPA in their plan. And we are weighing the costs against the benefits that the EPA has proposed.

Senator Whitehouse. For what it is worth, the Executive Director of the Wisconsin Business Alliance has called renewable energy an economic opportunity for Wisconsin that will "result in business growth, job creation, cleaner air and a quicker path to energy independence." She recently said, "We should look for opportunities to promote jobs and the environment and the Clean Power Plan is a great way to do that." So there appear to be other voices from Wisconsin.

Mr. Parfitt, Rocky Mountain Power's owner, the spokesperson for Rocky Mountain Power's owner, has said that multi-State approaches are likely to be a less costly way to meet the Clean Power Plan's targets. Wyoming's Casper Star-Tribune has said that, the Montana officials have held earlier discussions with other States about the prospect of cooperating to meet the EPA's targets consistent with the multi-State approach that Rocky Mountain Power's owner referred to.

Their Wyoming counterparts, the Wyoming Casper-Star Tribune continued, have thus far rejected regional advances. Now,

Montana, which is also a rural State that generates a significant portion of its electricity from coal, has come up with five draft options for complying with the proposed standards, including options that would not require Montana to shutter its coal plants.

So if Montana can do this, why can't Wyoming? And if Montana will work with other States, why won't Wyoming?

Mr. Parfitt. First I will address Montana's five different alternatives. In their alternatives, they assume that they will get credit for 100 percent of the wind energy. And that is not what has been conveyed by EPA. We have been told that we will get no credit for wind energy that is consumed outside the State. So that is one difference.

As far as the multi-State discussions, I will say that we have been involved with the same group, the Center for New Energy Environment, and participating in those conversations along with Montana and 13 other States. Now, there are challenges with a multi-State plan, particularly when we don't know what the end goal is going to be. All we have right now is what has been proposed. We don't know how EPA is going to change that proposal based on the comments that have been received.

So we don't know what the targets are going to be.

Senator Whitehouse. Do you agree that climate change is happening, that human activity plays a huge role in it and that

the consequences of doing nothing could be dire and expensive?

Mr. Parfitt. I am here to talk about the Clean Power Plan and whether or not we are going to do something to address CO2 emissions, whether or not this is a good plan and is it workable for Wyoming. And the answer is, it is not workable for Wyoming.

Senator Whitehouse. Irrespective of the amount of damage that CO2 might do? There is no number from CO2 harm that could cause you to change your point of view on that?

Mr. Parfitt. Not on the proposed plan and what that does to plants.

Senator Whitehouse. Very well. And finally, Mr. Easterly, how have you built the costs of climate change for Indiana into your analysis of the value of the Clean Power Plan?

Mr. Easterly. I don't think you can quantify any cost of future climate change on the State of Indiana. Let's go back to your other question.

Senator Whitehouse. Why do you not think you can quantify it? Isn't that part of your job?

Mr. Easterly. There is nothing concrete to quantify. There is speculation.

Senator Whitehouse. Have you read the report that says that 8 to 23 percent likely increase in energy costs could come to Indiana?

Mr. Easterly. The energy costs refer to the Clean Power

Plan, yes.

Senator Whitehouse. No, this is not from the Clean Power Plan. This is from increased heat levels in Indiana requiring increased cooling load during the -- you are not familiar with that report, obviously?

Mr. Easterly. Not that one.

Senator Whitehouse. Okay. When you are talking about the cost of electricity, are you talking about on a per kilowatt hour basis?

Mr. Easterly. Yes.

Senator Whitehouse. Let me just say, I am sorry to go over, can I just make a Rhode Island point?

Senator Inhofe. How long is the Rhode Island point?

Senator Whitehouse. Less than a minute.

Average monthly bills of residential customers in Wisconsin are \$95.21, in Indiana they are \$110.44, and in Wyoming they are \$90.85. In Rhode Island they are \$91.48, lower than two of these States, even though our kilowatt hour costs are higher. Because we have invested intelligently in energy efficiency and is that figure that really matters at the pocketbook.

Senator Inhofe. Thank you, Senator Whitehouse. Senator Barrasso?

Senator Barrasso. Thank you very much, Mr. Chairman. First to Ms. Nowak, it is affordability, reliability and safety, are

those what you consider?

Ms. Nowak. Correct.

Senator Barrasso. Thank you. Mr. Parfitt, just to kind of review, when it comes to how the EPA credits renewable energy, Wyoming, which produces a significant amount of renewable energy, still stands to be severely disadvantaged. You talked about how much Wyoming produced in terms of wind energy. I think you said that 85 percent of Wyoming's wind energy is exported to a number of other State. I heard Chairman Nichols say that California wants to buy even more Wyoming wind energy.

But the EPA has said no, that renewable energy is going to only be credited to the State where it is consumed, not where the energy is created, the hosting State, which means that Wyoming gets absolutely no credit for most of the wind energy that it develops. So I appreciate Senator Carper saying that that needs to be addressed.

My question is, how is this going to impact Wyoming's ability to attain our emission target? And how much additional renewable generation would we have to develop just to meet the EPA's proposed target?

Mr. Parfitt. This makes it very difficult for Wyoming to achieve its target. The estimate of renewable would be somewhere around 9 million megawatts of wind energy that would have to be developed in order for us to meet our target. Right now Wyoming

consumes about 600,000 megawatts of wind energy. So that equates to about a 1,400 or 1,500 percent increase of renewable that Wyoming uses right now.

Senator Barrasso. And you mentioned a lack of flexibility from the EPA in giving Wyoming what we would need in order to continue to produce a lot of the renewable sources. You mentioned that more than half of the land in Wyoming is federally-owned, that this has a significant on meeting the mandates coming out of the EPA. Your reference to permits, to the NEPA process, to the ESA requirements for which Wyoming has absolutely no control, and it doesn't seem the EPA is proposing any sort of relief in the plans to address these. You specifically cited that only one-sixth of the total area that the EPA has identified for wind energy development is actually available for wind energy development, due to sage grouse considerations, permitting requirements.

It seems the EPA is telling people in Wyoming to move faster in renewable energy while refusing to acknowledge that Washington's foot is still on the regulatory brakes. So can you go into a little more detail about how federal land ownership in Wyoming and the red tape that goes with developing energy resources on that land is a Washington roadblock that the EPA ought to address, if they want Wyoming to develop cleaner energy faster?

Mr. Parfitt. Yes. What we have seen for wind energy projects, when you have to go through the NEPA process, or those projects go through the NEPA process, that they have taken anywhere from four to eight years to get approved through the NEPA process. Then there is an additional Fish and Wildlife Service process for eagle take permits. Those will add to the time involved.

The other piece of it is transmission. You have to have transmission to move the energy out of the State. Those right now, we have two projects that have taken up to eight years to get through the permitting process. And they are still in that process now.

Senator Barrasso. And we had previous discussion and debate and votes, actually, in the Energy Committee, about transmission lines under the Democrat-controlled Senate in the past. And Democrats specifically voted to block transmission lines on the public lands, which half of the Wyoming land is public land. So that I think actually has played into exactly what you are talking about as well.

Mr. Parfitt. That is correct.

Senator Barrasso. You also talked about the potential closure of four coal-fired power plants in Wyoming, over \$1.4 billion, according to the Wyoming Public Service Commission. That is lost investment. And who knows how much it will cost to

replace the lost power.

Of course, that is going to be passed on, I would assume, to citizens within the six-State territory of Pacific Corps. And Senator Whitehouse asked a specific question about Pacific Corps. So would that mean that folks in not just Wyoming, but California, Washington State, Oregon, Idaho and Utah are all going to get a big new energy tax increase because of what the EPA is trying to do in closing those four power plants in Wyoming and having to build new plants? Am I correct in characterizing what you are saying?

Mr. Parfitt. That is correct. Those costs would be distributed amongst all the States involved with that system.

Senator Barrasso. So California would have higher electric bills as a result of the EPA mandates here through that Pacific Corps.

Mr. Parfitt. There is a portion of Northern California that is part of that system.

Senator Barrasso. A growing number of States are raising concerns that any type of implementation plan worked out with EPA is immediately going to become federally enforceable, making a State vulnerable to sue and settle lawsuits between environmental groups and the EPA. But unlike most sue and settle arrangements, which deal with a single plan or single facility under EPA's Power Plant rule, a States entire electricity system could become

subject to environmental lawsuits. EPA actually agrees with this concern. During question and answer in an event in February, the EPA's Acting Air Administrator, Janet McCabe, says she sees potential for States being subject to third party lawsuits if they submit State implementation plans. We have heard it from the Texas public utilities commissioner as well.

Mr. Chairman, I would like to, if there is time to ask a couple of folks here, maybe the first three in the panel, if so, do you believe EPA can promise some sort of protection against these lawsuits? What are you seeing, Ms. Nowak?

Ms. Nowak. We think the very foundation of this proposal already intrudes upon States' rights. And to have any State plans subjected to Federal authority is a great concern of ours. I think State energy policy should be left up to the States and in conjunction with the Department of Energy, not set by the Environmental Protection Agency. So we have great concerns about losing any State authority over any of our existing laws.

Senator Barrasso. Mr. Easterly?

Mr. Easterly. We do not believe EPA can protect us from lawsuits under the Clean Air Act. They can happen and they do.

Senator Barrasso. Mr. Parfitt?

Mr. Parfitt. We don't believe that we can be protected from the lawsuits from third parties with a State plan, as the proposal has been written.

Senator Barrasso. Mr. Chairman, I am out of time. Thank you very much.

Senator Inhofe. Thank you very much. Senator Fischer?

Senator Fischer. Thank you, Mr. Chairman, and thank you all for being here today.

Commissioner Easterly, when we had the Acting Air Administrator Ms. McCabe here earlier in the year, I asked her some questions about the heat rate efficiency assumption for building block one. And we know that EPA relied on the Sargent and Lundy analysis for that 6 percent heat rate. And in their own terms, they said that the EPA misapplied the data in a cumulative manner inconsistent with how the study was conducted.

Do you have any other concerns with how the EPA developed that 6 percent heat rate assumption that is out there?

Mr. Easterly. Yes. Part of EPA's thought process for building block one assumed that you would operate the plants in a way that gained efficiency, which really means you have to operate them at a steady state output. But then we have building two, which says, but oh, your coal plants are the last resort. You must operate your combined cycle natural gas plants first and use the coal plants to make up for swings in renewable and gas, and that will just make it much worse.

There is also emission controls that you have to add on to the coal plants, which have good reasons to be there. But they

all decrease the efficiency of the plant because this rule is based on megawatt outputs and there is a huge parasitic load for controlling those emissions. So there is a bunch of reasons that the plants are going to be less efficient on a per megawatt hour basis than more efficient.

Senator Fischer. So do you think that improvement is achievable in your State?

Mr. Easterly. We are hoping, and hoping is a strong word, that we might be able to get 2 percent if everything was done that could be done. But it is a serious challenge, because anything that is cost-effective, you have a reason to do it anyway if you are the utility, because you make more money. So the things that are left will only be cost-effective because the cost of not doing them under this plan is more expensive than the little incremental thing you will get.

Senator Fischer. That is exactly right. Would compliance with other environmental regulations, would that have any impact on your State's ability to meet that 6 percent?

Mr. Easterly. It will, because we still have some utilities that are going to have to add more energy for NOx and SO2 reductions that aren't there now. So that will decrease their efficiency as it is calculated under this rule.

Senator Fischer. I support an all of the above energy policy, and I know that many of my colleagues on this panel also

support that all of the above, that we need to have a balance in our energy portfolios. I think that is extremely important for a number of reasons, security reasons, cost reasons. It is the wise thing to do.

Do you think that this Clean Power Plan encourages diversity within our energy sector?

Mr. Easterly. Not in the long run. In the long run, it basically is the plan to continue to shut down coal-fired power plants and have natural gas and renewables. And those are fine sources of energy, but if you have ever been in business, once you get close to a monopoly, you have pricing power. And that gas suddenly won't look like it does now in price. When I worked in the utility industry for a short period of time, we had a natural gas price spike. It was very disruptive to all of our customers.

So I am worried those are going to happen in the future.

Senator Fischer. Let me go to another panelist, then I will ask another question. Mr. Parfitt, do you think that we are encouraging States to look at a balanced portfolio when it comes to their energy needs with this plan that is before us now?

Mr. Parfitt. From our view, the answer would be no. It seems like the purpose is to go to redispatch of other types of energy sources to replace coal. So it is not looking at a mix, it is really aimed at reducing coal.

Senator Fischer. I am from the only public power State in the Country. In Nebraska, we rely on our public power. It is a strength for our State. It is a definite strength for our ratepayers. We are very concerned about the impact it is going to have on families across our State, when and if this plan is implemented. Because we rely on our coal-fired electric plants. We have diversified portfolios, we continue to develop those. But to have a requirement, a mandate to have those implemented, I think in an unreasonably short period of time, will affect families and it will affect our most needy families.

Mr. Parfitt, how do you view that in Wyoming? You are our neighbors to the west. How do you view that? How are your families going to see what is coming to them?

Mr. Parfitt. We share the same concerns in terms of what the proposal will do to utility rates. Particularly with our compliance pathway as we see it, we would see an increase in rates due to the premature closure of coal plants and the stranded assets associated with that.

Senator Fischer. And Ms. Nowak, in Wisconsin, I don't know what your energy portfolio looks like in your State, but I would assume that some of your ratepayers won't be pleased when they get their bills?

Ms. Nowak. Not at all. You are correct, Senator. Our ratepayers have already invested over \$11 billion since 2000 to

clean up our air. That is continuing to be paid for. We have reduced emissions by 20 percent if you look at 2005 as a baseline. So they have done that. We are not getting credit for it. We are a predominantly coal State. Like Indiana, we are a heavy manufacturing State. This will have a very large impact, our modelers have estimated between \$3 billion and \$13 billion just for generation alone. That doesn't include any natural gas infrastructure or transmission infrastructure that needs to be done.

So that is going to hit every ratepayer from the low income to our large manufacturers.

Senator Fischer. It will hit every family in Wisconsin and across this Country.

Ms. Nowak. Right.

Senator Fischer. Thank you. Thank you, Mr. Chair.

Senator Inhofe. Thank you, Senator Fischer. Senator Sessions, you were the first one here and the last to speak, it looks like.

Senator Sessions. Had a little Budget Committee hearing. That makes us all nervous.

Senator Sessions. Well, Mr. Easterly, I came here, I remember thinking that I don't like this idea that there needs to be a mix of sources of power. We just should add more nuclear power, that was my simple idea. But as I have been here, and

seen the arguments, I am of the belief that if you become too dependent on one source of power, you are not able to have the competition that keeps costs down. Do you believe that is still a valid concern?

Mr. Easterly. Yes, Senator. Ironically, we don't have any nuclear, and I would love to have some. But it is so hard to build it, as you know. It is not likely to come in my lifetime.

Senator Sessions. Well, that is disappointing, I have to tell you. Natural gas rates have fallen and the costs of plants are up, NRC is more regulatory than ever. We are almost killing it off, which would be a disaster.

I think the unifying issue that we can all agree on, Republicans and Democrats, is a more healthy environment, less particulates, less NOx, less mercury, less SOx, things that make people sick and kill trees and that kind of thing. I think we can do better about that. In the course of that, I think it will have a benefit on CO2 emissions probably at the same time.

But I am going to press down on the brow of my constituents billions and billions of dollars in costs over the CO2 issue, frankly. We just need to balance this out and be reasonable about it, in my opinion.

So I believe you said, Ms. Nowak, that you believe that if these regulations pass, the cost of electricity will go up. Mr. Parfitt, in your State, do you think it would go up also?

Mr. Parfitt. Yes, that is correct.

Senator Sessions. Mr. Easterly?

Mr. Easterly. Oh, yes. We just aren't sure how much, but more than double digits.

Senator Sessions. And Ms. Nichols, do you believe that if these pass, you indicated, I am not sure what you said, so do you believe it will go up or not?

Ms. Nichols. You know, there has been a trend, I would say, over decades, for the cost per unit of electricity to go up. But what we think is important is the bill, what the customer actually sees. And in that event, we are holding steady. We are able to hold that steady.

Senator Sessions. Even if these new rules are passed?

Ms. Nichols. I believe so, yes.

Senator Sessions. Mr. Myers, what is your view about that?

Mr. Myers. Yes, Senator, I would concur with Ms. Nichols that it has been our experience that you can reduce carbon emissions and also keep electricity prices down.

Senator Sessions. Well, Ms. Nowak, you indicated, and we have spent a lot of money, you have spent a lot of money to make coal cleaner than it has ever been before. If those plants are closed, are you saying those are the stranded costs, lost investments that are damaging to the ratepayers in your State?

Ms. Nowak. Correct. The costs that our modeling estimated

it would cost is for new generation only. It doesn't take into account paying for units that have been recently built. Power plants are paid for over many, many years. So ratepayers will be paying for plants that are run much less while at the same time paying for new electricity. So yes.

Senator Sessions. Mr. Easterly, I would ask you to see if you can say yes or no on that, too. But let me ask a simple question. It seems to me that mandates, regulations drive up costs, and in an economic sense the same as raising taxes and having the government do it. The government could raise taxes on everybody and then pay for cleaning up power plants or whatever they want to do to achieve a certain goal.

So I just want to translate this into reality for the people who are buying electricity, businesses and homeowners and people like that. So these mandates that require greater expenditures to produce electricity are the equivalent of a tax on their lifestyle. Isn't that correct?

Mr. Easterly. Yes, it is. But different people benefit and don't benefit. So if you are in a regulated utility that makes a profit, if the price goes up and your percent of profits is the same, that goes up. If you are an REMC, a co-op, your customers are your owners and they really see it. There is no net benefit there.

Senator Sessions. I think that is the question, is the tax

on the economy worth the benefit that is achieved. And Dr. Lundborg here, from the Copenhagen Institute, said that the increase in CO2 over the next 60 years, is not going to be a detriment to the world. In fact, it will be a net benefit. He will agree that if this continues out into the next 150 years, you begin to have a cost.

So he questions all the expenditures we are talking about today. I just believe that is a fundamental thing. He talked about how many lives could be saved for just a fraction of these costs, helping poor people in a lot of different ways.

Thank you, Mr. Chairman. I appreciate this hearing and the good witnesses we have had.

Senator Inhofe. Thank you, Senator Sessions. Senator Boxer wanted to have just a moment for a unanimous consent request to enter something into the record. So we will recognize you for 30 seconds to do that and me for 30 seconds, and then it is over.

Senator Boxer. It is never over.

Okay. So, Mr. Chairman, I ask unanimous consent to place into the record a very important chart that shows that Californians are paying \$20 less per month for electricity than the national average as we reduce carbon pollution in such a great way. I am so grateful to Mary Nichols for playing a role in this.

Senator Inhofe. Without objection, so ordered.

[The referenced information follows:]

Senator Inhofe. And my 30 seconds, two documents, one from the Census Bureau that says California has the highest U.S. poverty rate when comparing income and cost of living across the State. And secondly from the Manhattan Institute, the migration from California to Oklahoma increased by 274 percent in the 2000s. And we are adjourned.

Without objection, so ordered.

[The referenced information follows:]

[Whereupon, at 11:50 a.m., the hearing was adjourned.]