



Public Service Commission of Wisconsin

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**Written Testimony of
Chairperson Ellen Nowak
Wisconsin Public Service Commission**

**Before the
Committee on Environment and Public Works
United States Senate**

**On
“State Regulators’ Perspectives on the Clean Power Plan”**

March 11, 2015

Good morning Chairman Inhofe, Ranking Member Boxer, and Members of the Committee.

Thank you for the opportunity to provide written testimony on behalf of the State of Wisconsin and to provide you with a summary of our state’s assessment of and concerns with the EPA’s “Clean Power Plan.” My name is Ellen Nowak and I am the Chairperson for the Public Service Commission of Wisconsin. Last fall, I was intimately involved with the construction of the comments the State of Wisconsin submitted to the EPA last December.

Wisconsin is a manufacturing heavy state, with more than 9,400 manufacturers employing approximately 475,000 people. Those industrial customers represent over one-third of energy sales. Milwaukee, our state’s largest city, was recently named one of the top five destinations for manufacturing in the nation. Also, just over 60% of our state’s power generation comes from coal. If the issues 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 made up of Public Service Commission experts on utility rate modeling, economics, environmental regulation and engineering and Department of Natural Resources experts on environmental regulation and, in particular, the Clean Air Act. Using a standard, accepted utility modeling program utilized by the Midcontinent Independent System Operator or MISO, our Wisconsin team forecast the cost of this regulation under a number of scenarios making different assumptions about the future.

This is the kind of analysis that should have been done by the EPA to take into account the impacts of this regulation on every family and every business in the United States.

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 \$3.3 billion and \$13.4 billion dollars.
- Second, as our assumptions became more realistic, the cost increased. For instance, would you assume 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.

But before I talk about compliance, it is critical to note that we question the technical and legal foundation of the proposal. The EPA constructed four building blocks, each of which was evaluated independent of each other, and added the carbon dioxide reductions resulting from each of those individual blocks to determine the Best System of Emission Reduction (BSER), which is the foundation for each state's target reduction.

The EPA committed a fundamental flaw when constructing the BSER because they ignored how the building blocks would affect each other when implemented together. For example, increasing reliance on natural gas, as suggested by building block 2 would severely decrease the heat rate improvement achievable in the coal fleet to far below the 6% required under building block 1. In fact, engineers at the Public Service Commission modeled the EPA plan and concluded their building blocks would deliver a 15.6% reduction in carbon dioxide emissions, a far cry from the 34% that the EPA claims is attainable for Wisconsin.

Moreover, the EPA used arbitrary and unsupportable approaches to determine the four building blocks. For example, building block 1 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 3, state renewable goals, takes a regional approach, and is driven by average renewable portfolio standards found in states arbitrarily grouped together.

Even more problematic with the EPA's treatment of renewable energy under building block 3 is that the EPA's proposed approach requires states that have already made significant investments in renewable energy to expand renewables more than states that have been slower to act. We also noted that the EPA needs to establish clear guidelines to allow states that own renewable generation in another state or purchase such generation to claim credit for that energy. Specifically, the EPA must clarify that the state paying for the renewable generation may claim credit for that generation regardless of where the generation physically occurs. Allowing the state in which the generation is located to claim the credit would be unfair to entities who have made investments in out-of-state renewable generation to optimize use of renewable resources.

Finally, the BSER proposed by the EPA is not a system at all, under any previous interpretation of the Clean Air Act. EPA's four building blocks as proposed are outside the coordination and control of the emission unit owner or operator, are not recognizable "systems" of work practice

or control that can be applied to an emission unit, and cannot guarantee a certain, conclusive greenhouse gas emission reduction when implemented as whole.

The selection of 2012 as the baseline year is also flawed. 2012 was a highly unusual year for the power system, unlike any single previous year. Low gas prices resulted in unusually high reliance on natural gas for generation, resulting in a deceptively low starting point from which to make reductions.

Furthermore, the use of 2012 as a baseline fails to credit states, like Wisconsin, that took action before that year to reduce their carbon dioxide emissions via measures such as plant closures, fuel switching to natural gas, and installation of renewable electricity, just to name a few. In fact, since 2000, Wisconsin utilities have invested, and ratepayers are still paying for, more than \$11.6 billion in carbon dioxide reduction measures. Not only does Wisconsin not receive credit for these investments, but we are actually penalized under every single building block for our early action.

Assuming the proposal survives the technical and legal flaws, compliance with the proposal presents other concerns. First and foremost, the EPA failed to adequately consider the total costs of the proposed rule, as required by Section 111(a) of the Clean Air Act. As I noted earlier, PSC's modeling estimates that the costs to comply with the EPA's proposal over the compliance period ranges from \$3.3-\$13.4 billion. This is only a production cost increase, and does not include necessary upgrades to the gas and electric transmission infrastructure that will add significantly to the cost of compliance. EPA also does not include provisions to avoid stranded costs and it is not clear that the agency considered the remaining useful life of these generators when determining the cost and impact of the rule.

Maintaining reliability of the grid is a critical element in successful implementation of this proposal, yet it is clear the EPA failed to provide a complete analysis of how grid reliability can be maintained during compliance. EPA must thoroughly consult with each of the independent system operators, regional transmission operators, NERC and FERC before releasing a final rule. There must be an evaluation of the proposal's impact on generation resource reserve margins and an understanding of what resources will be called on to meet those reserves. At a minimum, EPA should provide states a safety valve to ensure the reliability, safety and security of the electrical grid.

Finally, the timelines in the proposal for compliance are unrealistic and unworkable. The lead time required for planning, permitting and construction, not to mention EPA's own requirements, will require the full proposed compliance period, through the end of 2030. This time will minimize compliance costs and allow states to prudently plan for these significant changes to the power sector.

We all agree on the need to protect our environment, but the proposed rule does not strike the balance needed to protect public health, reliability of the grid and economic security.

I sincerely appreciate the opportunity to speak in front of this esteemed committee today, my submitted written testimony delves much further into the issues of modeling and technical aspects of the rule that are beyond troubling. If you have questions or concerns that cannot be answered today, I will gladly have PSC staff work with you at any time.

Thank you.

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