

Testimony of PPL Corporation
Senate Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety

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Mr. Chairman and members of the Subcommittee:

Thank you for the opportunity to address consequences of the recent federal appeals court decision invalidating the Environmental Protection Agency's Clean Air Interstate Rule (CAIR). My name is William Spence, and I am the executive vice president and chief operating officer of PPL Corporation.

PPL is a Fortune 500 company and one of the 10 largest electricity companies in the United States. Our headquarters is in Allentown, Pennsylvania. We own 12,000 megawatts of electricity generating capacity in six states — Pennsylvania, Montana, Maine, New York, Connecticut and Illinois — market electricity in the Northeast and West, and deliver electricity to 4 million customers in Pennsylvania and the United Kingdom.

PPL owns FERC jurisdictional generating assets in states with competitive wholesale electricity markets. Our generation portfolio consists of coal, nuclear, natural gas, oil and hydroelectric generation. We own and operate a growing portfolio of renewable energy projects, mainly solar and biogas. We have announced the intention to invest more than \$100 million to expand this renewable energy portfolio.

PPL owns and operates fossil-fuel-fired electric power generating plants in four of the 28 states that were covered by CAIR, most notably in Pennsylvania, where PPL owns about 3,500 megawatts of coal-fired generating capacity. Under EPA programs to reduce acid rain and ozone, the electric power industry has reduced annual emissions of sulfur dioxide by more than 40 percent and annual emissions of nitrogen oxides by 50 percent in the last two decades. During the ozone season, May through September, emissions of nitrogen oxides in the Eastern United States are about 70 percent less than in 1990, before implementation of the Clean Air Act Acid Rain Program. PPL has reduced annual emissions of sulfur dioxide by 30 percent and annual emissions of nitrogen oxides by 60 percent since 1990. And we are poised to do much more.

PPL is undertaking one of the largest construction projects in the company's 90-year history to upgrade environmental controls at its coal-fired power plants in Pennsylvania. This \$1.5 billion investment will result in additional significant reductions in emissions of sulfur dioxide and nitrogen oxides. The centerpieces of these upgrades are flue gas desulphurization systems, or scrubbers, on 3,000 megawatts of coal-fired generation.

Two scrubber systems are already in operation at PPL's Montour power plant in north central Pennsylvania. The scrubbers, placed in service on March 8 and May 17 of this year, will reduce sulfur dioxide emissions by at least 97 percent, or more than 100,000 tons, per year.

To a large extent, these investments were driven by our expectations about the market price of sulfur dioxide and nitrogen oxide allowances under the existing acid rain program and under CAIR. These expectations have been shattered by the surprising July 11 ruling by the U.S. Court of Appeals for the District of Columbia Circuit.

The ripple effect of the appeals court's decision is substantial. It has immediate adverse consequences for industry, states and the environment. First, the invalidation of CAIR eliminates a fundamental building block under the Clean Air Act non-attainment program for cost-effectively making additional reductions in sulfur dioxide and nitrogen oxide emissions. It thereby jeopardizes the timing and certainty of those reductions, which are needed in the 28-state CAIR region to move those states towards attainment of the NAAQS for fine particulates and ozone.

More importantly, the decision has put into serious jeopardy the ability of industry to comply with 2009 ozone season requirements in the 22 states that were part of the seasonal nitrogen oxides reduction program under EPA's 1998 SIP Call. The appeals court held that EPA's SIP Call remains in place even though CAIR has been invalidated. This means that industry in the states covered by the SIP Call must have necessary

nitrogen oxides allowances to surrender for the 2009 ozone season, but there are no 2009 ozone season allowances other than CAIR allowances, which cannot be used.

The SIP Call program has flow control provisions under which large numbers of banked allowances need to be surrendered if the number of banked allowances in a region exceeds a certain level. PPL planned to use its banked allowances to comply with CAIR, but because of the flow control provisions in the SIP Call program, we will not have enough allowances even if our CAIR allowances could be surrendered for the 2009 ozone season.

The decision to overturn CAIR has significantly affected the value of emission allowances for sulfur dioxide and nitrogen oxides. As part of our overall CAIR compliance strategy, PPL EnergyPlus, our company's marketing and trading subsidiary, purchased additional emission allowances for nitrogen oxides and sulfur dioxide. PPL now must assume under current law that the annual allowances for nitrogen oxides have no value because CAIR has been invalidated, and that the value of CAIR ozone season allowances is questionable unless they can be exchanged for allowances of EPA's SIP Call program or unless CAIR is reinstated by legislation. Trading of nitrogen oxides allowances ended abruptly when the court decision was announced.

The decision also directly affected the market price of sulfur dioxide allowances, which dropped dramatically as soon as the decision was announced. Spot prices for sulfur

dioxide allowances fell from \$300 per ton on the day before the court decision to around \$100 a ton after the decision was announced.

The combined value for PPL's emission allowances was about \$100 million at the end of the second quarter. Based on the value at the end of the third quarter, PPL has announced that it will report an impairment charge reflecting the decreased market value of emission allowances.

In addition to these problems, vacating CAIR adversely affects several other programs under the Clean Air Act. For example, it affects visibility programs in CAIR states because some states relied on EPA's presumption that sources meeting CAIR requirements also would meet Best Available Retrofit Technology (BART) requirements. Now those states will need to redo their BART analyses to include the impacts of sulfur dioxide and nitrogen oxides emissions without the reductions required by CAIR.

Vacating CAIR also affects reduction of mercury emissions. The technologies to be installed under CAIR produce co-benefits of mercury emissions reductions. These reductions may not occur without CAIR because the D.C. Circuit earlier this year also invalidated EPA's Clean Air Mercury Rule.

In adopting a state-specific rule to reduce mercury emissions from coal-fired power plants, Pennsylvania assumed that scrubbers and selective catalytic reduction (SCR) technology (technologies with mercury reduction co-benefits) would be installed under

CAIR. With CAIR invalidated, requiring coal-fired plants in Pennsylvania to install these controls solely to meet mercury requirements is extremely costly and would place Pennsylvania plants at an extreme economic disadvantage relative to plants in other states that, in the absence of CAIR, will not have to install those controls at all.

CAIR was developed with broad consensus to help states attain and maintain compliance with EPA's ambient air quality standards for fine particulates and ozone. PPL fully supported CAIR. For PPL and other electric power generators in the East, South and Midwest, CAIR provided certainty and flexibility to make necessary investments in the most cost-effective manner. The emissions caps assured environmental and health benefits by reducing overall emissions on a known schedule. The allowance trading provision of CAIR provided flexibility to generators to over-control at those plants where the cost of reductions per ton was less and to sell the excess reductions to plants where the cost was higher.

PPL developed a compliance strategy based on the CAIR requirements. Construction of scrubbers was part of that strategy. We continue to operate the scrubbers at our Montour plant as required by the plant's operating permit. We are continuing construction of scrubber systems at our Brunner Island power plant in south central Pennsylvania. Relying on those scrubbers, we have purchased coal from Pennsylvania suppliers. This coal has higher sulfur content than coal we currently purchase from other states.

The Montour plant also is equipped with SCR systems. To comply with requirements of the SIP Call, PPL operates this equipment during the ozone season. To meet the annual nitrogen oxides reduction requirements under CAIR that were scheduled to take effect in 2009, PPL had intended to operate the Montour SCRs year-round. Without CAIR, year-round SCR operation may be financially untenable.

To minimize the damage and provide the immediate relief needed for 2009, we urge Congress to act promptly and narrowly to amend the Clean Air Act to authorize and codify CAIR. In codifying the rule, Congress should preserve the right of states to petition EPA for rulemaking under the Administrative Procedure Act or under Section 126 of the Clean Air Act to obtain more reductions from upwind states if needed for attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) after implementing CAIR.

PPL believes an immediate legislative solution from Congress is necessary to ensure that progress toward cleaner air continues in a deliberate and systematic way. Only a legislative fix can be accomplished quickly and with the necessary certainty to rectify the current situation. Any regulatory solution will continue to be plagued by litigation.

PPL implemented sound business plans based on the rules that were in place and now, through the impairment charge, our shareowners are experiencing the upheaval that occurs in the absence of clear federal direction on environmental policy. The recent

appeals court decision has removed one leg of the platform on which emission reductions were anchored. That leg needs to be restored legislatively to keep the platform steady.

Sweeping changes are not necessary to address the immediate problems created by the appeals court's decision. Rather than major rewrites or new legislation that could take years to resolve, simply codifying CAIR at this time will enable the country to move forward with an acceptable solution that will keep us on the path we were following under CAIR. This would not, of course, preclude further modifications under comprehensive multi-pollutant legislation later. We look forward to working with Congress in those discussions.

Thank you for the opportunity to testify on this important environmental policy issue.