

## U.S. Chamber of Commerce testimony

on

### Environmental Protection Agency Proposed Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units

Charleston, West Virginia

November 28, 2017

Kathy Beckett, Member, Steptoe & Johnson; Chair, U.S. Chamber of Commerce Energy, Clean Air, and Natural Resources Committee; and member, Board of Directors of the U.S. Chamber of Commerce

---

The U.S. Chamber of Commerce strongly supports the Environmental Protection Agency's proposed repeal of the Clean Power Plan (CPP), and encourages the agency to instead develop more durable and achievable standards that preserve America's energy advantage while respecting the bounds of the Clean Air Act.

Put simply, the CPP is unlawful, and a bad deal for America. It would drive up electricity costs for businesses, consumers and families, impose tens of billions in annual implementation and compliance costs, and reduce our nation's global competitiveness—without any significant reduction in global greenhouse gas emissions.

While we are here today in energy rich West Virginia, it is important to remember that business community concerns with the CPP extend to nearly every sector of the economy. Consider, for example, that 15 national business trade organizations all joined with the U.S. Chamber in support of its legal challenge to the rule

These groups were accompanied by 27 states (led by West Virginia), 71 utilities, 8 labor unions, and numerous other business groups that filed separate suits. In total, nearly 160 entities sued EPA to stop the CPP, and they were supported by an amicus brief of 166 state and local business associations (including the West Virginia Chamber of Commerce) representing 41 states.

This broad and diverse coalition sued to protect states' longstanding role and responsibility to manage their own electricity systems, and to enforce legal limitations on the reach of the Clean Air Act.

At the center of this legal overreach is the CPP's mandate that power plant owners take actions "outside-the-fence" of a regulated facility. As EPA recognized in the proposed repeal, every prior regulation section 111 of the Clean Air Act (more than 100 in total) respected the law's "inside-the-fence" emissions management strategy for single sources. As EPA notes in its proposed repeal:

" . . . the CPP encompassed measures that would generally require power generators to change their energy portfolios through generation-shifting (rather than better equipping or operating their existing plants), including through the creation or subsidization of significant amounts of generation from power sources entirely outside the regulated source categories, such as solar and wind energy."

... . . . regulation of the nation's generation mix itself is not within the Agency's authority."

The U.S. Chamber thoroughly agrees with the EPA's recognition of these limits to its statutory authority. The CAA does not provide authority for EPA to establish regulatory law that creates preferred sources of power.

Furthermore, the CPP is inconsistent with Congress's directive that states—not the EPA—establish and implement "standards of performance" after taking into account the unique circumstances of local resources and communities. The CPP dismantled the longstanding model of cooperative federalism that has made the Clean Air Act an overall success.

The case against the CPP extends well beyond these core issues, and numerous additional concerns with the legal foundations of the CPP are detailed in the court documents.<sup>1</sup> For example, the CPP failures to meaningfully address infrastructure and reliability concerns, account for individual state circumstances that prevent certain States from achieving prescriptive rates set in the rule, or consider the remaining useful life of generation facilities.,

Moreover, the negative economic impacts of the CPP would be substantial. EPA estimates that its proposed repeal could provide up to \$33 billion in avoided compliance costs in 2030, relieving American consumer, worker and business from the unnecessary burden.

For example, in May 2016, the Energy Information Administration (EIA) within the Department of Energy released detailed modeling that projected the CPP would drive up

---

electricity rates and bills, reduce GDP by an average of \$58 billion per year, and result in 376,000 fewer jobs in 2030.<sup>2</sup> Coming from the federal government's own top energy experts, these projections speak volumes. In West Virginia, industry analysis from NERA Economic Consulting estimated that the CPP would increase average annual electricity rates by 21 percent.<sup>3</sup>

Rate impacts of this magnitude would have an unquestionable negative impact on families, businesses, and economic growth. With EPA's proposed repeal, the Trump Administration has an opportunity to avoid these impacts and preserve access to the abundant supplies of affordable and reliable energy that provide the U.S. a major competitive advantage in the increasingly competitive global economy.

For these reasons, the U.S. Chamber strongly supports the proposal to repeal the rule, and encourages EPA to instead pursue a more reasonable path forward that protects American jobs and the economy while fostering continued environmental progress. We look forward to working with EPA and other stakeholders in a true collaborative approach that achieves this goal.

---

<sup>2</sup> A detailed summary of EIA's CPP modeling is available at <https://www.globalenergyinstitute.org/sites/default/files/EIA%20CPP%20Final%20Rule%20Analysis%20Final%20Formatted%20Single%20Column.pdf>