



Electric
Reliability
Coordinating
Council

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March 12, 2012

VIA E-MAIL

The Honorable Cass R. Sunstein
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget
Executive Office of the President
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, NW
Washington, DC 20503

Re: Request for Meeting - US Environmental Protection Agency (EPA) New Source Performance Standards (NSPS) for Greenhouse Gas (GHG) Emissions from New Power Plants, Docket ID EPA-HQ-OAR-2011-0090.

Dear Administrator Sunstein:

On behalf of the Electric Reliability Coordinating Council (ERCC), I hereby request a meeting with you to discuss the above-captioned NSPS regulations on GHG emissions from new and reconstructed power plants that EPA has submitted to the White House Office of Management and Budget (OMB) for review.

ERCC is a group of power-generating companies that provide reliable and affordable power to millions of consumers in geographically diverse regions of the United States. ERCC members have long supported commonsense interpretation of the Clean Air Act in order to ensure electric reliability, affordability, safety and environmental protection.

We applaud President Obama's recent commitment to an "all-of-the-above" energy strategy and acknowledge his support for using a variety of energy sources to meet the nation's energy challenges. We are concerned, however, that EPA may be seeking to use the NSPS program to impose an effective ban on new coal-fired power plants in the US. We are also concerned that, absent sufficient clarity, the proposed rule could actually discourage energy-efficiency projects at existing facilities.

Infeasibility of the Regulations

Our understanding is that EPA may be seeking to propose standards that would require new coal-fired power plants to use carbon capture and sequestration (CCS) technology. Yet there is not any coal-fired power plant in the world that has been able, even with substantial government subsidies, to use this technology on a commercial scale. At this time, CCS is neither economically viable nor commercially available. Moreover, because of the unusual structure of the NSPS program, even a proposed rule to require CCS would effectively ban the construction of new coal-fired power plants in the US.

The Department of Energy (DOE) emphasized in a report on the status of CCS that the technology is over twenty years away from being commercially available. The Interagency Task Force on Carbon Capture and Storage concluded that there are multiple barriers to commercial development, including the absence of a legal and regulatory framework, the lack of clarity on potential long-term liabilities, and market failures due to knowledge spillover. Most of these factors cannot be addressed outside the legislative process. For the full report, see <http://www.fe.doe.gov/programs/sequestration/ccstf/CCSTaskForceReport2010.pdf>

The current status of CCS technology is particularly concerning due to the nature of the NSPS program and the immediate and binding effects the pending regulations would have if proposed. NSPS become effective on the date they are proposed, regardless of when the rule is actually finalized. Any power plant construction that begins after the date of proposal would be bound by these standards. Since CCS technology is not commercially available at this time, requiring the use of this technology would function as a complete ban on the development of new coal-fired generation.

Although the pending regulation, as we understand it, is only meant to apply to new and reconstructed coal-fired power plants, the effect that this regulation would have on current fleet owners cannot be ignored. First, our industry has learned over the last 15 years that, even if standards are only designed for new units, attempts could be made to apply them to existing facilities as well. Second, without the prospect of expanding and building new facilities, fleet owners may face disincentives to invest in innovation and will thereby reduce R&D efforts. The desire to innovate is fueled by the potential to capitalize on and profit from technology investments. Removing innovation incentives for existing plant owners would have troubling environmental implications. If, through EPA rules, the Administration announces that there is no future for coal-fired generation, it is much less likely that companies will sustain their R&D investments and that current coal-fired plants will be upgraded with new, environmentally beneficial technology.

In recent years, coal-fired power plants have provided 40 to 50 percent of the electricity used by US consumers and businesses each year. As aging coal-fired power plants are forced to shut down due to other EPA air pollution regulations and additional plants are temporarily idled to install mandated pollution controls, we need to ensure a reliable stream of electrical power is available to meet the nation's energy needs. Given the regulatory uncertainty related to future EPA regulations on a wide variety of energy sources – and not just coal—keeping all options on the table for energy generation, as the President has suggested multiple times, is essential to maintaining America's energy supply.

EPA's Aggressive Regulatory Offensive

When combined with the myriad of other regulations proposed, adopted, or currently planned by EPA, the GHG NSPS will present a near and present danger to the reliability of the electric grid and the nation's economy. The power sector is under severe pressure already from the myriad of rules and regulations coming from the EPA. In addition to the GHG regulations, EPA has or will promulgate numerous new rules in 2010 – 2012. These other rules include regulations for:

- Mercury and other emissions through the National Emission Standards for Hazardous Air Pollutants (HAP) from Coal- and Oil-Fired Electric Utility Steam Generating Units (the so-called “Mercury and Air Toxics Standards” or MATS);
- Emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) from fossil-fueled power plants in the eastern U.S. (the “Cross-State Air Pollution Rule” or CSAPR);
- Ash and other residuals from the combustion of coal either under Subtitle C as a hazardous waste or Subtitle D as a solid waste of Resource Conservation and Recovery Act (RCRA);
- National Ambient Air Quality Standards (NAAQS) for SO₂, NO₂, Ozone, and PM; and
- Cooling water intake structure requirements under section 316(b) and new discharge limiting effluent standards under the Clean Water Act.

Taken together, these regulations will impact roughly 780,000 megawatts of gas, oil, and coal-fired generation, which is about 75 percent of the current available capacity in the U.S., and makes up nearly 70 percent of the U.S. total electricity generation. Without further deadline extensions, compliance with several of EPA's new rules would all be required within the same compliance period or shortly thereafter. These retrofits are so substantial that, in many cases, they will cost more to build than the cost of the original generating unit. This means that the generating units subject to these rules would either have to undertake the installation of extensive retrofits on an unrealistic timeframe or else shutdown entirely.

Reliability Risks

As a result of EPA's new regulations, including the proposed NSPS, the country may experience a shortage of electricity, and the reliability of our electricity grid will face substantial risks. The downside impacts of reduced electric reliability are substantial and must be taken into account in any responsible analysis of applying NSPS to GHG emissions from power plants. As the Institute of Electrical and Electronics Engineers (IEEE) has stated, “a reliable supply of electricity is more than just a convenience, it is a necessity; the global economy and world's very way of life depends on it.” IEEE, Reliability and Blackouts, at <http://electripedia.info/reliability.asp> (accessed Nov. 11, 2011). There is no quick fix to generating more electricity and remedying the risks to reliability that come about with each plant closure. In most cases, coal-fired plants cannot be replaced overnight by natural gas plants, as the time it takes to install pipeline and other infrastructure necessary even to begin conversion of an old plant or construction of a new one is considerable. IEEE further observes that “Even minor occurrences

in the electric power grid can sometimes lead to catastrophic ‘cascading’ blackouts. The loss of a single generator can result in an imbalance between load and generation, altering many flows in the electricity network.” The direct costs to high-technology manufacturing in the San Francisco Bay Area alone during the California blackouts alone ran as high as one million dollars *a minute* due to lost production. The relatively brief Northeast blackout of 2003 cost business about \$13 billion in lost productivity. G.F. McClure, Electric Power Transmission Reliability Not Keeping Pace with Conservation Efforts, *Today’s Engineer* (online)(Feb. 2005). These are actual costs with empirical support.

Electricity Costs and their Implications

The other alternative, substantially increased energy costs, is equally troubling. Removing coal from our country’s energy mix raises additional concerns due to the volatility that exists in the other energy markets. Losing the option to generate power from coal, which has historically stable costs compared to oil and gas, is a risk we should not be willing to take. The fact that the NSPS for GHG emissions from power plants will increase electricity costs for residential consumers and businesses in the U.S. is beyond dispute. These higher prices will, in turn, undermine both the U.S. economy and future progress to curb GHG emissions.

According to a 2011 report commissioned by the Global CCS Institute, even if the barriers to CCS are overcome and it becomes commercially available, the cost of production for a coal-fired power plant is expected to increase by 61 to 76 percent after implementation of CCS technologies. A 2010 DOE study estimates adding CCS technology would increase the cost of electricity from 59.2 tenths of a cent (mills)/kWh to 108.2 mills/kWh. These costs will be passed onto consumers in the form of higher prices. For the full text of the Global CCS Institute report, see <http://cdn.globalccsinstitute.com/sites/default/files/publications/12786/economic-assessment-carbon-capture-and-storage-technologies-2011-update.pdf>. For the full text of the DOE report, see http://www.netl.doe.gov/energy-analyses/pubs/BitBase_FinRep_Rev2.pdf.

Higher electricity prices are destructive to our economy. Affordable, reliable energy is one of the main drivers of economic growth, and increasing the cost of energy and thereby forcing U.S. industries overseas is something we cannot risk as our country continues down the path of economic recovery. Higher prices will be disproportionately borne by companies in energy-intensive manufacturing, where higher prices will make it more difficult to expand operations and increase employment. These productive industries result in millions of direct and indirect jobs.

Ironically, the healthy economy that reliable and affordable power makes possible is necessary to create the financial basis for future generations of clean technology. In this sense, the healthier societies are also those that sustain wealth. As one widely-read, recent report pointed out, “recessions serving as a rough time for green energy shouldn’t surprise us: a poor economy is not a time during which technological advance tends to flourish. Firms are cutting costs, investors are pulling back, and consumers aren’t spending. The money just isn’t available for an expensive product to succeed.” If cutting GHG emissions is truly a priority, the first step needs to be focusing on economic recovery now to allow for investment in and development of new energy technologies in the future. See “It’s Even Harder Being Green During a Recession,” *The Atlantic*, Sept. 23, 2011.

Meeting Request

We encourage you to ensure that efficient, state-of-the-art coal-fired power plants continue to be a viable part of this country's energy mix and that policymakers seriously consider the negative consequences that the proposed NSPS could have on our nation's ability to rely on coal as a source of energy.

We would greatly appreciate the opportunity to discuss our views on the pending proposal and offer information to you and your staff on the potential impact of NSPS regarding GHG from coal-fired power plants on electric reliability and the economy and the failure of the EPA to take this matter seriously into account.

Thank you for your consideration of this request. Please contact me or my assistant David Mann at (202) 828-5845 to schedule a mutually convenient date and time. We look forward to a constructive discussion.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Segal". The signature is fluid and cursive, with a large loop at the end of the last name.

Scott H. Segal, Director

Electric Reliability Coordinating Council

Cc: Staffs, CEA, CEQ, EPA, NEC, OIRA/OMB, OSTP