Clean Power Plan 2.0 Electric Reliability: U.S. House of Representatives Energy & Commerce Committee Hearing

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The United States House of Representatives Energy & Commerce Committee ("Committee") held a June 6th hearing titled:

Clean Power Plan 2.0: EPA's Latest Attack on America's Electric Reliability ("Hearing")

The purpose of the Hearing as described by Committee Chair Rodgers and the Environment, Manufacturing, and Critical Materials Subcommittee Chair Johnson was to:

. . . explore how the Environmental Protection Agency's latest proposed power plant rules could make these problems worse and add new costly burdens to important energy sources like natural gas, which is responsible for a significant portion of emission reductions. (Referencing shutting down baseload power sources, raising costs, and threatening energy blackouts.)

EPA promulgated the original Clean Power Plan during the O'Bama Administration. See 80 Fed. Reg. 64662 (Carbon Emission Guidelines for Existing Stationary Sources; Electric Utility Generating Units) (October 23, 2015). The regulation was issued pursuant to Section 111(d) of the Clean Air Act.

The United States Supreme Court ultimately held that the Clean Power Plan exceeded the authority provided to EPA in the Clean Air Act. The federal agency was held to not have the authority to dictate to utilities in terms of industry moves from the use of coal for power generation.

The Committee's reference to Clean Power Plan 2.0 denominates EPA's issuance on May 11th of a proposed rulemaking that would limit greenhouse gas emissions for fossil fuel-fired power plants. See 88 Fed. Reg. 33,240 (May 23, 2023). The proposed rule is applicable to both new and existing natural gas-fired power plants and existing coal-fired power plants. The Clean Air Act authority utilized is Section 111.

Limits would be set for:

- New gas-fired combustion turbines
- Certain existing gas-fired combustion turbines
- Existing coal, oil, and gas-fired steam generating units

The proposed rule based the standards on certain technologies. These include carbon capture and sequestration/storage, low-greenhouse-gas, hydrogen co-firing, and natural gas co-firing.

A June 2nd memorandum from the Committee's Majority Staff to the Members of the Subcommittee on Environment, Manufacturing, and Critical Material addresses the following issues:

- Proposed Greenhouse Gas Standards for the Power Section
- EPA's Electric Generating Unit strategy
- Electric Reliability

The Majority Staff's memorandum also identifies issues to be addressed at the Hearing:

- The impacts of the proposed standards on the reliable delivery of power
- The technical and economic challenges relating to the new standards and their implementation
- The impacts of the proposed standards on the electricity generation mix

Scheduled witnesses at the hearing and their written statements included:

Mr. Patrick O'Loughlin

President and CEO

Buckeye Power Inc. and Ohio Rural Electric Cooperatives

Mr. Todd Snitchler

President and CEO

Electric Power Supply Association

Mr. Michael J. Nasi

Partner

Jackson Walker

Mr. Jay Duffy

Litigation Director

Clean Air Task Force