



**American
Public Power
Association**

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November 3, 2015

The Honorable Ed Whitfield
2184 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Whitfield:

On behalf of the American Public Power Association (APPA), I am writing to express support for H.J. Res. 71 and H.J. Res. 72. These resolutions provide for congressional disapproval of the Environmental Protection Agency's (EPA) final rules to regulate carbon dioxide (CO₂) emissions from new and existing power plants, respectively. APPA is the national service organization representing the interests of over 2,000 community-owned, not-for-profit electric utilities. These utilities include state public power agencies, municipal electric utilities, and special utility districts that provide electricity and other services to over 48 million Americans.

APPA believes the issue of global climate change needs to be addressed, but not through the existing Clean Air Act (CAA). The CAA was enacted to address criteria pollutants for human health protection and not carbon dioxide (CO₂) or other greenhouse gases (GHGs). In spite of the obvious problems with regulating GHGs under the CAA, EPA has decided to go forward with its efforts to regulate such gases from both new and existing fossil fuel-fired power plants under CAA Section 111.

EPA's final rule to establish Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Generating Units (EGUs), referred to as the Clean Power Plan, goes well beyond what is permissible under Section 111(d). APPA is strongly concerned about its potential impacts on many public power utilities and their customers. While EPA addressed some of the concerns APPA and its members had raised during the comment period, the agency failed to address our core concern that the emissions guidelines are not achievable at the affected source—the EGU. EPA's best system of emissions reduction (BSER) determination is based on measures that affected EGUs cannot undertake themselves. APPA is not aware of any precedent under Section 111 whereby EPA has required the owner or operator of a source to take actions separate and apart from the source. Furthermore, the standard for existing fossil fuel-fired steam generating units and integrated combined cycle units (i.e., coal-fired sources) is lower (1,305 pounds of CO₂ per megawatt hour (lb CO₂/MWh)) than the standard for new sources, which is 1,400 lb CO₂/MWh. It is illogical and impractical for the standard to be lower for existing coal-fired power plants than for new coal-fired power plants.

With regard to the final Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Generating Units (e.g., New Source Performance Standards), APPA also believes EPA has gone beyond the scope of its authority under Section 111. The final standard for new coal-fired power plants is 1,400 lb CO₂/MWh and

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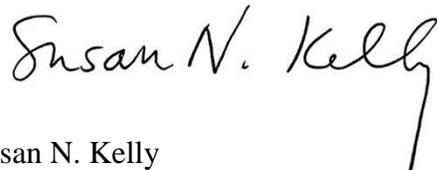
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it relies on partial carbon capture and sequestration (CCS) technology to achieve this standard. The agency has not shown that CCS technology is adequately demonstrated. EPA asserts that four months of operation of the SaskPower Boundary Dam CCS project in Canada is sufficient to adequately demonstrate the technology. Such an assertion based on four months of data is unprecedented. Furthermore, there are a host of technical, legal, and environmental questions regarding the long-term storage of CO₂ in the ground, which is different than the use of CO₂ for enhanced oil and gas recovery, where the gas is recycled rather than permanently stored. The CEO of APPA member City Utilities of Springfield (CUS) testified before the House Science, Space, and Technology Committee in March 2014 on the utility's experience in the Missouri Carbon Sequestration Project, which sought to locate sites for long-term sequestration. The utilities involved in this project with the National Energy Technology Laboratory were unable to demonstrate the long-term storage capability in the state. Some sites were unsuitable for sequestration. Others required further testing, which had to be abandoned due to cost limitations. CUS's experience shows that much more research, development, and demonstration are needed before CCS can be declared adequately demonstrated to reduce CO₂ emissions from new power plants.

Given the legal infirmities of EPA's final rules to regulate CO₂ emissions from new and existing fossil fuel-fired power plants and their implications for utilities, businesses, consumers, and states, Congress should overturn them. Congress, not EPA, should determine the best legal framework to address CO₂ emissions, while ensuring electricity remains affordable and reliable for all Americans.

Thank you for your leadership on this important issue affecting electric utilities. I hope you will feel free to contact me or the APPA government relations staff with any questions.

Sincerely,



Susan N. Kelly
President & CEO
SNK/DW

cc: The Honorable Fred Upton
The Honorable Frank Pallone
The Honorable Bobby Rush