

**BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

Emission Guidelines for Greenhouse Gas     )  
Emissions from Existing Electric Utility     )     EPA-HQ-OAR-2017-0355  
Generating Units; Revisions to Emission     )  
Guideline Implementing Regulations;         )  
Revisions to New Source Review Program     )

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**COMMENTS OF ANDREW G. PLACE, VICE CHAIRMAN  
PENNSYLVANIA PUBLIC UTILTIY COMMISSION**

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Respectfully, I submit the following comments regarding EPA's three proposals under this docket that (a) replaces the Clean Power Plan (CPP) with the Affordable Clean Energy (ACE) rule, (b) establishes regulations providing states direction on the implementation of emissions guidelines and (c) revises the New Source Review standard. These comments do not necessarily reflect the view of the Pennsylvania Public Utility Commission as a whole, but are my comments offered as Vice Chairman of the Pennsylvania Public Utility Commission, and a Pennsylvania resident and business person.

In accordance with state law<sup>1</sup> the Pennsylvania Public Utility Commission does not regulate generation, we do however have a responsibility to Pennsylvania ratepayers, businesses and consumers alike, to maintain just and reasonable rates and are keenly attentive to impacts that wholesale generation market changes have on Pennsylvania's consumers. As a Commissioner, I have the responsibility and authority to represent Pennsylvania's consumers before the courts, and in proceedings involving the state and federal government.

The below comments summarize my thoughts and views filed at the related, albeit separate, dockets regarding the repeal of the Clean Power Plan<sup>2</sup>, and Electric Generating Units: Advance Notice of Proposed Rulemaking on State Guidelines for Greenhouse Gas Emissions from Existing Sources<sup>3</sup> including my opinions on EPA's new three prong approach to regulating greenhouse gases as expressed at this docket. In the previous dockets I had advocated for maintaining key components of the Clean Power Plan, as its requirements and organization are clear, flexible, understood and of value. Additionally, I advocated for a solution, if not the Clean Power Plan, that

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<sup>1</sup> See generally 66 Pa.C.S. §2801 *et seq.*, (the Electricity Generation Customer Choice and Competition Act).

<sup>2</sup> Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Reopening of the Comment Period; Docket No. EPA-HQ-OAR-2017-0355-14998.

<sup>3</sup> Electric Generating Units: Advance Notice of Proposed Rulemaking on State Guidelines for Greenhouse Gas Emissions from Existing Sources; Docket No. EPA-HQ-AOR-2017-0545-0001.

was responsive to the 2009 Endangerment Finding, ensured maximum flexibility for state implementation, provided for beyond-the-fence compliance measures, including trading and carbon pricing options, and allowed for use of carbon capture and sequestration technology as a compliance measure. EPA's ACE proposal falls short in that it excludes all of these measures.

The proposed rule, if adopted, would establish guidelines for states to develop plans to reduce greenhouse gas emissions from existing coal-fired power plants. While ACE would defer to states for much of the content of the plan and timing, it only offers a very narrow subset of possible efficiency measures at coal-fired power plants – which are also likely not the most cost-effective. In contrast, compliance options under the Clean Power Plan were broader and more economically efficient, including providing for arguably least-cost compliance through energy efficiency and renewables. While I find EPA's proposal wholly inadequate, I will focus on a few key points of disagreement with the current proposal.

*A. ACE Establishes No Real Goals and No Compliance Deadlines*

Nationwide, the Clean Power Plan would have resulted in significant carbon reductions, 32% nationwide reductions by 2030, representing the first ever nationwide limits on carbon pollution from power plants. The plan contained benchmarks to curb emissions from the power sector, which is the nation's largest source of pollution driving climate change. For Pennsylvania, the nation's largest net energy exporter, this would have meant a 33% reduction in carbon emissions by 2030. Pennsylvania, with no state-specific carbon goals, is now left with no standards in the wake of the Clean Power Plan repeal. In furtherance of the argument that this proposal is wholly ineffective in reducing carbon, EPA provides that, "The year 2025 is an approximation for

when the standards of performance under the proposed rule might be implemented.”<sup>4</sup> Without any appreciable reduction targets or timelines for compliance, the plan cannot successfully reduce emissions in a tangible way as to be an effective tool to reduce climate driving emissions.

*B. ACE Will Result in Increased not Reduced Power Sector Emissions*

Legally, this proposal must address the 2009 Endangerment Finding that “current and projected concentrations of greenhouse gases ... threaten the public health and welfare of current and future generations.” However, carbon reductions achievable under ACE will fall substantively short of what is demonstrably required to achieve real environmental benefits. In the Proposed Rule, EPA’s own modeling indicates that, “Emissions are projected to be higher” under the three ACE policy scenarios as compared to the baseline case which assumes implementation of the Clean Power Plan.<sup>5</sup> Not only is this proposal not responsive to the 2009 Endangerment Finding, it is a backsliding of environmental protections. In all three ACE policy scenarios modeled by EPA, CO<sub>2</sub> emissions in 2030 are greater – as compared to projected emissions levels under the Clean Power Plan scenario. I further question the assumptions of the modeling and whether the resulting numbers are indicative of future market behavior as they most likely overstate the amount of carbon emission reductions achievable via Heat Rate Improvements (HRI) alone. Additionally, most scenarios, other than CPP, show marked increases in SO<sub>2</sub> and NO<sub>x</sub> between now and 2025.<sup>6</sup>

*C. Narrow Best System of Emissions Reductions Definition is Costly, Shortsighted and Inefficient*

Under Chapter 111 (d) of the Clean Air Act, EPA determines what the Best System of Emissions Reductions (BSER) is in order to provide related guidance to states. Under the final

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<sup>4</sup> [https://www.epa.gov/sites/production/files/2018-08/documents/utilities\\_ria\\_proposed\\_ace\\_2018-08.pdf](https://www.epa.gov/sites/production/files/2018-08/documents/utilities_ria_proposed_ace_2018-08.pdf)

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

Clean Power Plan, BSER was defined by what EPA referred to as the three building blocks: (1) improving the coal unit heat rate efficiency, (2) shifting generation dispatch to lower carbon generating units, and (3) replacing fossil-fuel generation with additional power from wind, solar, and other zero-emitting sources. This comprehensive BSER definition would have allowed states to identify the most flexible, state-centered and cost-effective approach to compliance. However, in the ACE proposal, EPA has severely limited the definition of BSER to include only heat-rate improvements at existing coal-fired units.

The BSER is to take into account the cost of achieving such emission reductions and also any non-air related health and environmental impacts. Though there may be potential heat-rate improvements (HRI) available, based on the age and current technology of existing generating units, this may very well be the most-expensive option by which to achieve reductions, which also may be negligible at best. EPA has removed all beyond-the-fence options for BSER and focuses solely on HRI in an apparent attempt to prop up coal units to the detriment of other lower emitting generation units and technologies. Furthermore, this proposal ignores the cost implications associated with this exceedingly narrow interpretation of BSER and, based on EPA's own modeling results, does not appropriately consider health and environmental impacts.

#### *D. Changes to New Source Review Standards Run Counter to Clean Air Act Protections*

Additionally, EPA's proposed rule includes regulatory regression on a longstanding provision of the 1977 amendments to the Clean Air Act that required modernized emissions controls on industrial plants that have undergone major modifications. This provision has led to markedly improved air quality over the last four decades without stifling economic development or industrial competitiveness. EPA's draft proposal indicates that these changes are necessary to

prevent “NSR from being a barrier to the implementation of efficiency projects at EGUs”<sup>7</sup>, arguing that by eliminating the NSR review trigger, power plants may more easily implement projects such as turbine upgrades, postulating that NSR removal will increase HRIs by 2% to 4.5%.<sup>8</sup> This proposed rule change would have the effect of extending the life of older coal-fired power plants by decades without, however, necessitating the installation of emission controls that have proven to be cost effective and protective of human health and the environment. Consequently, these repowered, uncontrolled units would be at an unwarranted economic advantage against more environmentally judicious units, including newer fossil plants operating on natural gas and, as a result, run more often, leading to the perverse outcome of higher aggregate emissions. This is not a win for the environment, or human health, but an end run around decades-old environmental protections, which have been protective of human health and the environment while providing economical power for sustained economic growth.

#### *E. EPA’s Proposal Should Include Carbon Pricing*

Pricing carbon emissions is arguably the most economically efficient compliance mechanism to reduce emissions. A market fosters innovation, is technology agnostic, and leads to least-cost solutions. Natural gas, nuclear, energy efficiency, capturing carbon at coal and natural gas plants, and renewables all have discrete, unique carbon reducing attributes. Pricing these attributes is economically elegant, regulatorily efficient, and warranted.

Flexibility and beyond-the-fence compliance options are key to ensuring least-cost compliance, none of which are contained in EPA’s current ACE proposal. While the U.S. Environmental Protection Agency has a responsibility to move forward with the regulation of

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<sup>7</sup> [https://www.epa.gov/sites/production/files/2018-08/documents/utilities\\_ria\\_proposed\\_ace\\_2018-08.pdf](https://www.epa.gov/sites/production/files/2018-08/documents/utilities_ria_proposed_ace_2018-08.pdf)

<sup>8</sup> *Id.*

greenhouse gases from existing sources, in its present form, this proposal will have far reaching negative impacts on energy markets, environmental and human health, and ultimately consumers. In its current form, ACE represents a backsliding of environmental protections, and a relinquishing of EPA's mission to protect human health and the environment.

Respectfully submitted,

/s/ Andrew G. Place

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*Vice Chairman, Pennsylvania Public Utility Commission*