

Chairman Calvert, Ranking Member McCollum, and members of the subcommittee: thank you for the opportunity to testify today about the Environmental Protection Agency's fiscal year 2016 budget request, and the proposed "Clean Power Plan" in particular. My name is Dan Byers. I am senior director for policy at the U.S. Chamber of Commerce Institute for 21<sup>st</sup> Century Energy. I'm appearing before you today on behalf of the Partnership for a Better Energy Future (the Partnership), a coalition of business organizations representing over 80 percent of the U.S. economy.<sup>1</sup>

Established in January 2014, the Partnership's fundamental mission is to promote an "all-of-the-above" energy strategy that ensures the continued availability of reliable and affordable energy for American families and businesses. As of March 2015, the Partnership totals 177 members, which include national organizations as well as state and local associations in 36 different states. All are united by widespread concerns that the proposed rule—as well as EPA's broader GHG regulatory agenda—presents a significant threat to American jobs and the economy.

Released in June 2014, EPA's Clean Power Plan would require states to meet stringent carbon dioxide emissions goals through a fundamental transformation of the generation, transmission, distribution, and use of electricity in America. The rule is the centerpiece of President Obama's Climate Action Plan, and EPA has made clear that its development and promulgation is the agency's top budget and policy priority. Accordingly, the Partnership appreciates this opportunity to communicate the business and industrial community's concerns with EPA's proposal.

In short, the CPP is fundamentally incompatible with numerous practical and technical aspects of America's electricity system, and would represent a vast expansion of the agency's regulatory reach into the authority held by states and other federal regulatory agencies. The Partnership urges the Subcommittee to ensure EPA addresses the following concerns and develops a path forward that supports American jobs and the economy, maintains electric reliability, and allows all energy sources to play a role in our energy future.

### **The U.S. Needs an All-of-the-Above Energy Strategy**

Consumers of energy, whether they are large manufacturers or individual households, benefit most from an all-of-the-above energy strategy. Diversity of energy supply is not only critical in keeping energy costs reasonable, it is essential in ensuring steady and reliable streams of energy to power our factories and heat our homes. For many U.S. businesses that compete in a global economy, energy represents a major input cost that can ultimately determine viability. Right now, energy is an advantage for many U.S. industries in large part because of the abundant and diverse energy resources that are collectively providing reliable and affordable energy supplies. However, if regulations such as the EPA's CPP force energy options off the

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<sup>1</sup> The Partnership is co-chaired by the U.S. Chamber of Commerce and the National Association of Manufacturers. For more information on Partnership members and activities, visit [www.BetterEnergyFuture.org](http://www.BetterEnergyFuture.org).

table, energy prices will become more volatile, costs will increase, reliability will be threatened and U.S. firms will ultimately be less competitive.

### **The CPP Will Increase Energy Prices**

The CPP threatens to cause serious harm to the U.S economy, raising energy prices and costing jobs. EPA's own estimates project that its rule will cause (inflation-adjusted) nationwide electricity price increases of between 6 and 7 percent in 2020, and up to 12 percent in some locations. EPA estimates annual compliance costs between \$5.4 and \$7.4 billion in 2020, rising up to \$8.8 billion in 2030. These are power sector compliance costs only, and do not capture the subsequent adverse spillover impacts of higher rates on overall economic activity.

Other analyses show that the impacts on energy prices could be substantially higher. A study by NERA Economic Consulting indicated that average U.S. electricity prices would increase by 12% per year and the total costs of the rule could be between \$366 billion to \$479 billion over a 15 year timeframe.<sup>2</sup> Many of these costs will have to be absorbed by residential, commercial and industrial energy consumers who will not only pay more for energy but also could be forced to purchase new equipment. Further, higher energy prices disproportionately harm low-income and middle-income families. Since 2001, energy costs for middle-income and lower-income families have increased by 27 percent, while their incomes have declined by 22 percent.<sup>3</sup> EPA's rule will only exacerbate this trend.

### **Reliability Concerns will be Exacerbated by EPA's Regulations**

Despite unequivocal statements from EPA Administrator Gina McCarthy that "nothing we do can threaten reliability"<sup>4</sup> in the Clean Power Plan, independent experts and key stakeholders are increasingly alarmed that the proposed CPP will in fact do exactly that: dramatically increase electrical grid stress and reliability challenges. For example, the North American Electricity Reliability Corporation (NERC)—the independent organization responsible for ensuring grid reliability—found that EPA's proposed goals and timelines for achieving them "would increase the use of controlled load shedding and potential for wide-scale, uncontrolled outages".<sup>5</sup>

In response to these concerns and related Congressional requests, the Federal Energy Regulatory Commission (FERC) is convening reliability experts to examine the potential implications of EPA's rulemaking on the electric grid. Such an analysis is imperative so that we can know, before it is too late, whether reliable electric service can be maintained in conjunction with the implementation of the CPP. It is imperative that EPA thoroughly addresses any findings and recommendations resulting from the FERC conferences before finalizing the

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<sup>2</sup> NERA Economic Consulting, Potential Energy Impacts of the EPA Proposed Clean Power Plan, October 2014. Available at: [http://www.americaspower.org/sites/default/files/NERA\\_CPP%20Report\\_Final\\_Oct%202014.pdf](http://www.americaspower.org/sites/default/files/NERA_CPP%20Report_Final_Oct%202014.pdf)

<sup>3</sup> [http://americaspower.org/sites/default/files/Trisko\\_2014\\_1.pdf](http://americaspower.org/sites/default/files/Trisko_2014_1.pdf)

<sup>4</sup> [https://archive.org/details/CSPAN2\\_20140415\\_203000\\_Key\\_Capitol\\_Hill\\_Hearings](https://archive.org/details/CSPAN2_20140415_203000_Key_Capitol_Hill_Hearings)

<sup>5</sup> [http://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/Potential\\_Reliability\\_Impacts\\_of\\_EPA\\_Proposed\\_CPP\\_Final.pdf](http://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/Potential_Reliability_Impacts_of_EPA_Proposed_CPP_Final.pdf)

rule, and that it also provide states an opportunity to provide feedback on changes made as a result of this effort.

### **States Have Major Concerns With EPA's Proposed Rule**

States, which are ultimately tasked with implementing EPA's proposal, have filed detailed comments that reveal widespread concerns about the design, content, and legality of the approach the Agency has proposed. A summary of official state comments developed by the U.S. Chamber of Commerce found a majority of states have raised numerous fundamental concerns with the rule. For example, 32 states questioned the legality of the rule, 32 states raised reliability concerns, 34 object to EPA's rushed regulatory timelines, 33 object to the rule's lack of credit for actions taken prior to 2012, and 40 states questioned the achievability of at least one of the "building blocks" upon which the rule is based. The extent and magnitude of these concerns illustrate that EPA must make major changes to its rule before finalization. If the fundamental flaws with the rule identified by states are left unaddressed, the end result will be a significantly more expensive, less reliable electricity system that will have negative repercussions across the entire U.S. economy.

### **The Legality of the Proposed Rule is Highly Questionable**

EPA's attempt to fundamentally redesign electricity markets through its Clean Power Plan rests on unprecedented and highly-questionable legal interpretations of the Clean Air Act (CAA). States and other stakeholders have raised countless legal concerns with the proposed rule. As the attorneys general of 17 states noted in comments to EPA, "[T]he Clean Air Act generally and Section 111(d) specifically do not give EPA that breathtakingly broad authority to reorganize states' economies. 'Congress . . . does not, one might say, hide elephants in mouseholes.' . . . Congress did not hide the authority to impose a national energy policy in the 'mousehole' of this obscure, little-used provision of the Clean Air Act, which EPA has only invoked five times in 40 years. The proposed rule has numerous legal defects, each of which provides an independent basis to invalidate the rule in its entirety."<sup>6</sup>

In a 2014 decision, the Supreme Court pointedly reminded EPA: "When an agency claims to discover in a long-extant statute an unheralded power to regulate 'a significant portion of the American economy,' . . . we typically greet its announcement with a measure of skepticism." Unfortunately, EPA's proposed rule is exactly the type of regulatory extremism the Supreme Court cautioned against.

### **EPA's Approach to Greenhouse Gas (GHG) Regulations Will Drive Manufacturing to Less Efficient Countries and Potentially Result in an Increase of Global Emissions**

U.S. industries are some of the most efficient in the world both in terms of energy use and GHG emissions. In 2010, the GHG emission intensity of the U.S. economy, measured by total carbon dioxide emissions divided by GDP, was 31% below the worldwide average and 67% below that

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<sup>6</sup> Attorneys General of AL, FL, GA, IN, KS, LA, MI, MT, NE, ND, OH, OK, SC, SD, UT, WV, and WY

of nations that are not part of the Organization for Economic Cooperation and Development.<sup>7</sup> Based on current projections, worldwide energy-related CO<sub>2</sub> emissions will rise approximately 20% by 2035 while U.S. emissions are projected to be relatively flat. Thus, the carbon intensity of the U.S. economy is set to drop even further when compared to worldwide averages and non-OECD nations.<sup>8</sup>

If the Administration adopts policies that substantially increase the cost of energy – thereby decreasing the competitiveness of U.S. industries – investments and emissions will be sent to other, less efficient countries with higher CO<sub>2</sub> emissions intensities.<sup>9</sup> As a result, overly restrictive and costly U.S. policies to reduce emissions will not only be offset by the rapidly increasing emissions from other countries, but could actually result in a net *increase* in global emissions. A more effective policy approach for lowering global GHG concentrations would be to position the United States as the best place in the world to manufacture.

### **Additional Global Context**

EPA's regulations will impose billions of dollars in costs on the U.S. economy but fail to meaningfully reduce CO<sub>2</sub> emissions on a global scale. For example, the projected CO<sub>2</sub> emission reduction from EPA's proposed rule is, at most, 555 million metric tons (mmt) in 2030, which represents only 1.3 percent of projected global CO<sub>2</sub> emissions in that year.<sup>10</sup> This reduction in 2030 would offset the equivalent of just 13.5 days of CO<sub>2</sub> emissions from China.<sup>11</sup>

Meanwhile, the U.S. has led the world in reducing CO<sub>2</sub> emissions. Since 2005, U.S. emissions have fallen by 13 percent while China's have grown by 69 percent and India's have increased by 53 percent.<sup>12</sup> International emissions will only continue to grow rapidly — between 2011 and 2030, CO<sub>2</sub> emissions from non-OECD nations are projected to grow by nine billion tons per year.<sup>13</sup> In other words, for every ton of CO<sub>2</sub> reduced in 2030 as a result of EPA's proposed rule, the rest of the world will have increased emissions by more than 16 tons.

### **Conclusion**

The Partnership appreciates the opportunity to testify on this critically important matter. In light of the concerns summarized above, the Partnership strongly urges the Subcommittee to take any and all budget and policy actions necessary to reduce the threats EPA's rule poses to the U.S. electricity system as well as the broader economy. Thank you.

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<sup>7</sup> International Energy Agency: <http://www.iea.org/media/statistics/CO2Highlights2012.XLS>

<sup>8</sup> International Energy Agency: <http://www.worldenergyoutlook.org/media/weowebiste/2012/factsheets.pdf>

<sup>9</sup> A good example would be China, which recently announced it will not curtail CO<sub>2</sub> emissions until 2030.

<sup>10</sup> EPA, *Regulatory Impact Analysis for the Proposed Carbon Pollution Guidelines for Existing Power Plants and Emission Standards for Modified and Reconstructed Power Plants*, June 2014; EIA, *International Energy Outlook 2013* (projecting global emissions of 41, 464 mmt in 2030).

<sup>11</sup> The Energy Information Administration projects that China will emit more than 14 billion tonnes of CO<sub>2</sub> in 2030.

Source: <http://www.eia.gov/forecasts/ieo/table21.cfm>

<sup>12</sup> [http://edgar.jrc.ec.europa.eu/news\\_docs/pbl-2013-trends-in-global-co2-emissions-2013-report-1148.pdf](http://edgar.jrc.ec.europa.eu/news_docs/pbl-2013-trends-in-global-co2-emissions-2013-report-1148.pdf)

<sup>13</sup> EIA, *International Energy Outlook 2013*