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## **Statement of the Institute for 21st Century Energy U.S. Chamber of Commerce**

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**ON: Statement for the Record on the U.S. Environmental Protection Agency's "Proposed Carbon Pollution Standard for Existing Power Plants"**

**Docket ID No. EPA-HQ-OAR-2013-0602**

**TO: U.S. Environmental Protection Agency**

**DATE: July 30, 2014**

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EPA Public Hearing on  
“Proposed Carbon Pollution Standard for Existing Power Plants”

The Honorable Karen A. Harbert  
President and Chief Executive Officer  
Institute for 21st Century Energy  
U.S. Chamber of Commerce  
July 30, 2014

Docket ID: EPA-HQ-OAR-2013-0602

Thank you for the opportunity to present comments today. I am Karen Harbert, president and CEO of the Institute for 21st Century Energy, an affiliate of the U.S. Chamber of Commerce, the world’s largest business federation representing the interests of more than three million businesses of all sizes, sectors and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America’s free enterprise system. The mission of the Institute is to unify policymakers, regulators, business leaders, and the American public behind common sense energy strategy to help keep America secure, prosperous, and clean.

The Chamber has long been clear in its view that the Clean Air Act (CAA) is not the appropriate vehicle to regulate greenhouse gases (GHG), and is poorly designed for such a task. We believe EPA’s proposed rule illustrates this incompatibility, as it is fundamentally inconsistent with numerous practical, technical, and legal aspects of America’s electricity system. Nonetheless, we appreciate this opportunity to communicate specific concerns regarding the rulemaking.

While review of EPA’s proposal remains ongoing, it is clear that it will significantly transform how electricity in America is generated, transmitted, distributed, and used. Robust and comprehensive study of the potential electricity sector and broader economic impacts of the rule is necessary, but it does not take such an analysis to understand that a regulation of this scope and magnitude will negatively impact American families and businesses. As the Wall Street Journal noted in a recent editorial, “it is impossible to raise the price of carbon energy without also raising costs across the economy. The costs will ultimately flow to consumers and businesses.”<sup>2</sup>

With this in mind, I want to highlight the following four high-level issues that are representative of our more detailed concerns with EPA’s proposal, and which we believe must be addressed before EPA moves forward with this rule:

1. **Electricity Price Increases and Economic Impacts.**

While EPA’s proposal must be thoroughly and independently analyzed to better understand its costs and electricity market implications, it is clear that the rule presents a significant threat to American jobs and the economy. EPA itself estimates that its rule will increase electricity prices

between 6 and 7 percent nationally in 2020, and up to 12 percent in some locations.<sup>1</sup> EPA estimates annual compliance costs between \$5.4 and \$7.4 billion in 2020, rising up to \$8.8 billion in 2030. It is important to note that these are power sector compliance costs only, and do not capture the subsequent spillover impacts of higher electricity rates on overall economic activity. These increases will place an immense burden on U.S. businesses, and could eliminate the critical competitive advantage that affordable and reliable electricity provides to the American economy.

Further, the United Mine Workers Association has estimated that the rule will result in 187,000 direct and indirect job losses in the utility, rail, and coal industries in 2020, and cumulative wage and benefit losses from these sectors of \$208 billion between 2015 and 2035.<sup>2</sup>

## 2. Lack of Flexibility.

EPA has repeatedly emphasized that “flexibility” is the cornerstone of its proposal. In her speech announcing the rule, Administrator McCarthy emphasized that states can “pick from a portfolio of options” and “mix and match to get to their goal.”<sup>3</sup> While many states and stakeholders in fact sought maximum compliance flexibility prior to the rule, the “portfolio of options” (aka “building blocks”) that comprise the foundation of EPA’s proposal are clearly designed to increase the stringency of the rule, rather than assist states and affected sources’ compliance efforts.

Specifically, by incorporating reduction measures beyond affected sources, EPA was able to tighten individual state targets substantially. While the agency’s “mix and match” messaging implies otherwise, if the emissions reductions called for from one individual building block are not met, they must be made up for through even greater reductions in another building block (or by alternative measures that EPA does not specify). Because individual building block targets were set at aggressive levels, there is little to no “wiggle room” between options. As a result, and unless EPA incorporates true flexibility into the rule, we expect states will face major compliance challenges.

## 3. Transparency, Process, and Timeline.

Perhaps most troubling, nearly two months after its release, the specific implications of EPA’s proposal on individual states remain clouded by its complex and confusing structure, and the fact that the agency’s proposed emissions limitations on individual states vary widely based on complex and detailed assumptions and formulas that may not reflect reality, what is practical, or even what is legal.

In order for states and stakeholders to fully evaluate the impacts of EPA’s proposal, EPA must better explain and disclose underlying assumptions and data that serve as the foundation for its binding emissions targets on states. EPA has to date failed to address these issues, and

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<sup>1</sup> EPA Clean Power Plan Regulatory Impact Analysis, available at <http://www2.epa.gov/sites/production/files/2014-06/documents/20140602ria-clean-power-plan.pdf>

<sup>2</sup> Testimony of Gene Trisko on behalf of the United Mine Workers Association before Pennsylvania Senate, June 27, 2014 <http://environmental.pasenategop.com/files/2014/06/Trisko-Testimony.pdf>

<sup>3</sup> <http://yosemite.epa.gov/opa/admpress.nsf/8d49f7ad4bbcf4ef852573590040b7f6/c45baade030b640785257ceb003f3ac3!OpenDocument>

provided little to no information regarding what authority it is relying upon to institute such an expansive regulatory regime, and how it intends to proceed if it does not approve of individual state implementation plans. This is critical information that EPA should disclose in the interest of maximizing transparency and continued cooperation with states and stakeholders.

Relatedly, as states and stakeholders continue to struggle to interpret and respond to the rule's more than 1,600 pages of highly technical regulatory text, EPA should significantly enhance and extend its public involvement process associated with this rule. Specifically, we respectfully request that EPA hold additional public hearings on the rule in order to enable a greater number of citizens and stakeholders representing a broader range of viewpoints and geographic locations to provide input on the rule. Further, and perhaps most important, we ask that at least some component of these public meetings be interactive, so impacted stakeholders can ask EPA direct questions regarding the intent and implications of its proposed rule. Such a format will help bring clarity to an immensely complicated regulatory proposal, and greatly enhance the public-private and Federal-state cooperation that you have emphasized are essential to the success of the rule.

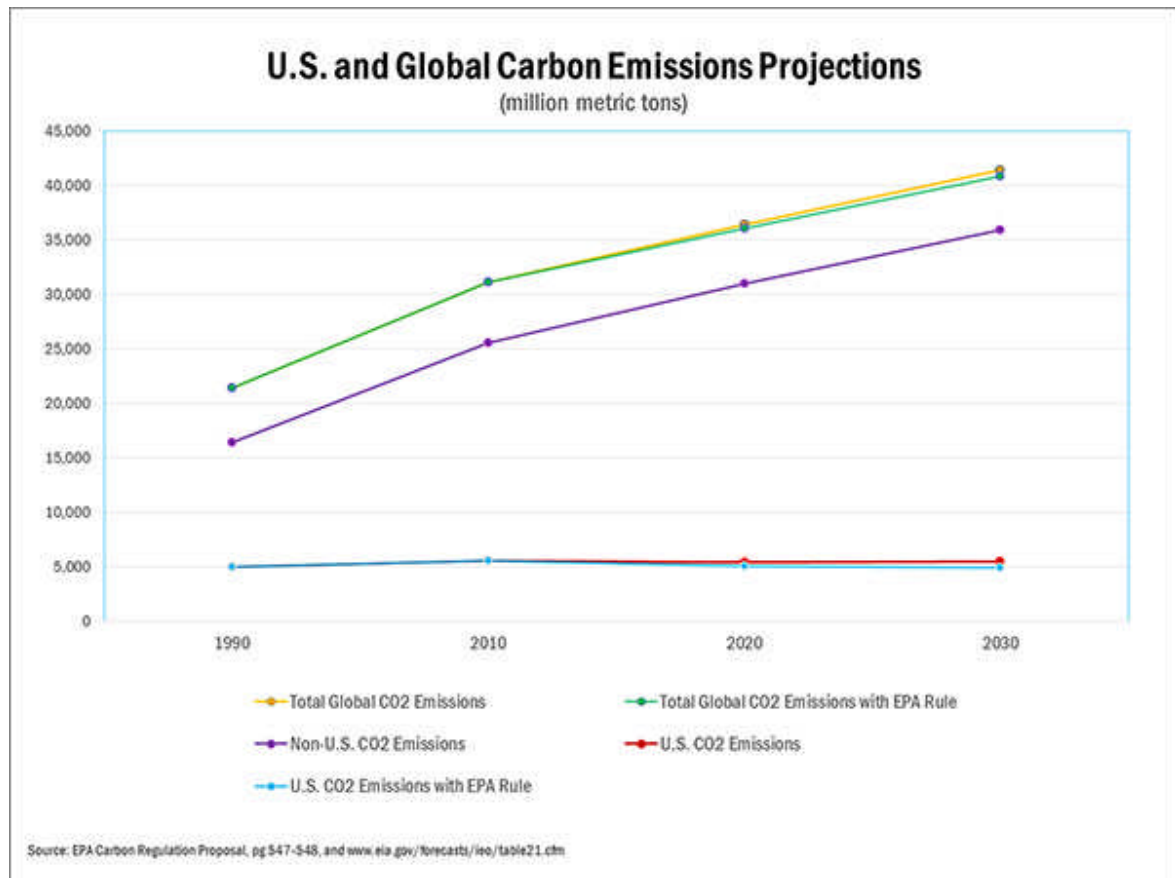
Finally, we request that EPA extend the currently-planned 120-day comment period by at least 60 days to ensure that affected stakeholders have sufficient time to assess the rule and consider feedback provided at the forthcoming public hearings.

#### 4. **Global Context and Rule's Negligible Impact on Potential Future Climate Change.**

Beyond the myriad design and technical concerns associated with this rule, beyond increased electricity rates, reliability concerns, state disparities and process concerns, EPA's proposal suffers from an overarching and inescapable flaw: its failure to meaningfully address its express purpose for being: climate change. For example, EPA estimates that in 2030, its proposed rule would reduce carbon dioxide emissions 555 million metric tons (mmt) below current projections.<sup>18</sup> While this amount is 10 percent of total projected U.S. CO<sub>2</sub> emissions, it represents only 1.3 percent of projected global emissions in 2030 (Chart 1).

This is because non-U.S. CO<sub>2</sub> emissions—which already represent 82% of global emissions—are projected to grow by 41 percent between 2010 and 2030. Put another way, EPA's proposed rule will offset the equivalent of 13.5 days of Chinese emissions in 2030, based on U.S. Department of Energy projections.<sup>19</sup>

**Chart 1. U.S. and Global Carbon Emissions Projections with and without EPA's Proposed Rule**



EPA and the Obama Administration do not dispute the reality that unilateral U.S. efforts to regulate CO<sub>2</sub> will be futile. Administrator McCarthy, Secretary of State Kerry, and even President Obama have emphasized that, in the absence of similar actions by other major economies, U.S. regulations to address carbon emissions will fail.<sup>19</sup> In a recent speech, Secretary Kerry noted that:

*[T]he United States cannot solve this problem or foot the bill alone. Even if every single American got on a bicycle tomorrow and carpooled – instead of – or carpooled to school instead of buses or riding in individual cars or driving, or rode their bike to work, or used only solar powers – panels in order to power their homes; if we each, every American, planted a dozen trees; if we eliminated all of our domestic greenhouse gas emissions – guess what? That still wouldn't be enough to counter the carbon pollution coming from the rest of the world. Because today, if even one or two economies neglects to respond to this threat, it can counter, erase all of the good work that the rest of the world has done.*<sup>21</sup>

To this end, EPA has said that the primary objective of its power plant rulemaking is not to mitigate the projected impacts of climate change, but rather to “prompt and leverage international discussions and action.”<sup>22</sup>

Despite the welcome candor from the Administration, the path to an effective international agreement is wholly unclear, and it is troubling that EPA appears set on moving forward with its rules regardless of the outcome of international negotiations. Such a circumstance would add insult to injury, as in many cases EPA’s rule would not reduce carbon emissions at all, but simply *move* emissions to other countries that have not implemented similar restrictions.

In conclusion, addressing these straightforward concerns and priorities will go a long way toward ensuring this rulemaking meets the required technical and legal foundations through a robust, transparent, and fair process that is set out in a reasonable timeframe.

Thank you.