**ALABAMA’S OPPOSITION TO U.S. EPA’S**

**CLEAN POWER PLAN**

**Testimony of Blaine Galliher**

**Senior Advisor to Governor Robert Bentley**

Good morning, Madam Chairman and Members of this Panel:

Thank you for inviting me to testify here today. My name is Blaine Galliher, and I am the Senior Advisor to Alabama’s Governor, Robert Bentley. Governor Bentley is the Chief Executive Officer of the State of Alabama whose sworn duty is to uphold the rule of law for the nearly 5 million hard working men and women in Alabama.

The Governor’s sworn duty includes enforcing environmental laws, which help protect our natural resources and the health of Alabama citizens. My comments today on behalf of Governor Bentley reflect deep philosophical belief and concern with this Administration’s proposed environmental regulations. These regulations will dictate how utilities generate power and how consumers use that power for decades to come. In doing so, the proposal effectively restructures the electric sector.

Governor Bentley, in a letter to EPA Administrator Gina McCarthy, February 2014, expressed these concerns: “….Regions of the country such as the South and Alabama will be more dramatically and adversely impacted by GHG emission requirements, where the economies of coal and natural gas in our state have helped deliver a critical manufacturing and industrial base leading to an improved quality of life not only for the residents of Alabama, but also for the nation.”

The laudable goal of the proposed EPA regulations to reduce emissions of carbon dioxide for new effected fossil fuel-fired electric generating units is quite simply swallowed up by the adverse consequences of the proposed rule.

**THE COSTS ARE REAL -- THE BENEFITS ARE NOT.**

While it is abundantly clear that Alabama will incur these costs, the benefits are vague. Any claim that the proposed rule will make any material difference in global temperatures is dubious at best. Theoretically, the rule might reduce global concentration of carbon dioxide by less than one percent, and it might reduce global temperatures by less than a hundredth of a degree.[[1]](#footnote-1)

The link between affordable energy and economic growth cannot be ignored. Affordable energy, as we all know, is a vital necessity for every Alabama household and business alike; it is the cornerstone of a vibrant U.S. economy.

Throughout Governor Bentley’s term in office, Alabama has aggressively pursued new industry and jobs. Alabama’s manufacturing industry has proven to be extremely valuable in that it contributes significantly to the Alabama economy. In 2011, Alabama’s manufacturing sector provided approximately 237,300 direct jobs in Alabama, and created many more indirect jobs and small businesses.[[2]](#footnote-2) Alabama’s manufacturing industry produced more than 13 billion in exports to the world economy -- nearly 85% of all exports in Alabama. [[3]](#footnote-3) These economic contributions depend on low cost energy. But compliance with the proposal for reductions in CO2 emissions by almost 30% will directly cost the state by cost of compliance, increased energy rates, loss of jobs and industry, including coal-industry and related jobs, and the negative impact of lessened energy reliability.

The U.S. Chamber of Commerce predicts that the compliance cost for these regulations will total nearly $480 billion by 2030, or $28 billion each year to 2030.[[4]](#footnote-4) The Chamber’s estimate is three times larger than the EPA estimate. As we all know, electricity is a force multiplier in Alabama and in every other state of this nation. Rising electric costs will damage our Gross Domestic Product (GDP).

The U.S. Chamber of Commerce estimates the loss in GDP will be $50 billion per year, peaking at $100 billion in 2025.[[5]](#footnote-5) To bring these numbers into perspective, it would mean a typical family in Alabama would lose approximately $3,400 in disposable income during the time contemplated by the regulation (2013-2030) resulting from higher utility rates.[[6]](#footnote-6) The impact on Alabama’s poorer families is disproportionate and devastating in light of that prospect.

As Governor, Robert Bentley is unwilling to transfer to the U.S. Environmental Agency the indirect power to reshape Alabama’s energy portfolio and choices at the expense of the people of Alabama.

**THE CLEAN AIR ACT, SECTION 111(d) IS SUBJECT TO THE LIMITATIONS CONGRESS IMPOSED UNDER SECTION 112.**

By this proposal, EPA attempts to require action by entities which are not directly subject to regulation under the Clean Air Act. In doing so, EPA exceeds its authority. There is no question that existing coal-fired electric generating units are regulated under Section 112 of the Clean Air Act. Therefore, these units should not be regulated under Section 111(d) as EPA seeks to do.

Further, the Clean Air Act forbids Section 111(d) regulations that are based on emission reductions that cannot be achieved at individual facilities. EPA’s goal calculation to be imposed on Alabama cannot meet this requirement, but instead relies on reductions by an entire system, state, and region to include facilities and state governments acting in tandem.[[7]](#footnote-7)

Section 111(d) expressly states that the EPA is prohibited from regulating any air pollutant emitted from an existing source category that is regulated under Section 112 of the Clean Air Act. EPA has already imposed extensive regulations on existing coal and natural gas-fired power plants pursuant to Section 112. Regulation under Section 112 of the Clean Air Act precludes regulation of these sources under Section 111(d).

EPA’s proposed regulation seeks to perform an “end run” around the Congressional mandate and limitations under Section 112. The proposed regulation unequivocally violates Congress’ expressed intent under Section 112 of the Clean Air Act. This overreach ignores the constitutional principle of separation of powers between the Executive and the Legislative branches of government, and runs headlong into the sovereign right of states to protect the general welfare of its citizens.

**INCREASED ELECTRICITY COSTS AND IMPACTS ON RELIABILITY**

Historically, Alabama’s retail electricity suppliers have achieved their goals in large part by maintaining a balanced mix of generation resources. These resources include hydro-electric, coal, natural gas, nuclear, and renewables. In our view, the proposed rule effectively bans traditional coal-fired generating technology as a future supply option, despite the fact that this base-load technology has provided reliable, cost effective electricity to Alabama consumers and to our nation for many decades.

The predictable result of coal plant retirements would sharply increase the cost of electricity to Alabama households and businesses. Coal plant retirement would result in a diminished capacity of 114 gigawatts, or about 40% of existing capacity.[[8]](#footnote-8) This means that coal-fired generations’ share of total electricity generated must decrease from approximately 40% in 2013 to 14% in 2030, and correspondingly, natural gas shares increase from 27% to 46%. (See, Footnote 8).

While EPA promises Alabama and other states “flexibility,” it actually deprives them of the most meaningful flexibility by reducing their use of the lowest cost and most reliable sources of electricity generation, i.e., coal-fired generating plants and hydro- electric generation from existing plants, by forcing reliance on more expensive, volatile, and intermittent sources, such as wind and solar.[[9]](#footnote-9)

The predictable effect is to push the nation’s electric grid over the edge. Philip D. Moeller, Commissioner, Federal Energy Regulatory Commission, observed that, “The experience of this winter strongly suggests that our nation’s bulk power system is at its limits.” Also, Michael Kormos, PJM Interconnection, observed that, “Because less expensive coal generation is being replaced by high energy cost resources, excess generation will narrow and energy prices could become more volatile due to increasing reliance on natural gas for electricity generation.”

EPA’s proposal jeopardizes reliability by reducing available resources for power generation during peak times of use and demand. The extreme and prolonged cold of last winter provides the unmistakable lesson that fuel diversity is necessary to achieve reliability, a cost effective solution to our nation’s power needs. Electricity typically represents 60% to 75% of the direct operating costs for some of Alabama’s largest industries. The loss of low cost energy sources will adversely impact Alabama’s ability to attract industry and to create jobs in our state.

The elimination of coal as a fuel for new electric generation would have far reaching implications for electricity prices and for the economy and job creation in general, not only in Alabama, but would also affect the competitiveness of manufacturing in America.

**THE IMPACT ON ALABAMA MINERS AND COAL PRODUCTION.**

Governor Bentley is gravely concerned that the EPA’s proposal will adversely affect the coal production industry and its employees. The coal mining industry is very important to Alabama’s economy and employs more than 4,500 workers. In 2013, Alabama mining companies had more layoffs in our state than any other industry.[[10]](#footnote-10)

Not only does the coal industry support many direct jobs, it also supports many other businesses that provide ancillary services to the mining industry, creating even more jobs for Alabamians. Those related businesses include railway, transportation, trucking, and manufacturers of mining equipment. If the EPA moves forward with these regulations and proposed carbon standards, many of the indirect jobs in Alabama are at risk.

Alabama believes that the proposed rules, if they become effective in 2015, will condemn 50% of the Alabama miners to the unemployment line and result in a much lower standard of living for the families of miners. Today in our state, there are many hard-working families who depend on the coal industry to make an honest living and who will not be able to maintain that standard of living if the proposed GHG standards are promulgated by the EPA.

**CONCLUSION**

The link between affordable energy and economic growth cannot be ignored. Affordable energy is a vital necessity for every resident and business alike in Alabama, and is the cornerstone of a vibrant U.S. economy. Coal, as part of a balanced mix of generation resources, is readily available to support affordable and reliable energy for decades to come. The low cost and dependability of coal will mitigate energy impact and move the U.S. closer to energy independence.

The use of alternative energy sources is not adequate to supply the nation’s electric grid. As electricity use rises in the next 20 years, the nation’s supply will be in grave jeopardy.

The State of Alabama and Governor Bentley strongly oppose EPA’s proposed mandate to effectively restructure the electric sector. It will have disastrous consequences for electric reliability and the economy. It will devastate the Alabama coal industry. The EPA’s proposal seeks to expand the scope and reach of Section 111(d) and would do so at the expense of Alabama’s authority that is expressly identified and preserved in the Clean Air Act and is within the unquestionable jurisdiction of the states. The minute effect on global warming and the vague health benefits to Alabama citizens comes at too high a price. There is simply no rationale that can support this regulation. The Agency should heed the collective warnings of interested stakeholders, and, in the end, halt this regulation.

1. American Coalition for Clean Coal Electricity (ACCCE), “Six Major Myths About EPA’s Proposed Carbon Regulations.” [↑](#footnote-ref-1)
2. National Association of Manufacturers, “Alabama Manufacturing Facts”. [↑](#footnote-ref-2)
3. Semmon Chang, Ph.D., “The Importance of the Manufacturing Industry to the Alabama Economy and the Role of Electricity”, Consulting Report, November 2011. [↑](#footnote-ref-3)
4. Institute for 21st Century Energy, U.S. Chamber of Commerce, “Assessing the Impact of Potential New Carbon Regulations in the United States,” pg. 4. [↑](#footnote-ref-4)
5. Institute for 21st Century Energy, U.S. Chamber of Commerce, “Assessing the Impact of Potential New Carbon Regulations in the United States,” pp. 2, 6-7. [↑](#footnote-ref-5)
6. Institute for 21st Century Energy, U.S. Chamber of Commerce, “Assessing the Impact of Potential New Carbon Regulations in the United States,” p. 7. [↑](#footnote-ref-6)
7. Testimony of Alabama Attorney General Strange before the Senate Committee on Environment & Public Works Subcommittee on Clean Air and Nuclear Safety, June 18, 2014. [↑](#footnote-ref-7)
8. U.S. Chamber of Commerce, “Assessing Impact of Potential New Carbon Regulations in the United States,” p. 3. [↑](#footnote-ref-8)
9. 79 Fed.Reg. 34867. [↑](#footnote-ref-9)
10. Birmingham Business Journal, February 21, 2014. [↑](#footnote-ref-10)