

Testimony
Subcommittee on Energy and Power
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by
Henry R. Darwin, Director
Arizona Department of Environmental Quality

Mr. Chairman, members of the Committee. My name is Henry Darwin. I am the Director of the Arizona Department of Environmental Quality and I greatly appreciate the opportunity to offer testimony today.

I must first caveat my remarks by saying that as an environmental lawyer with almost 20 years of experience, I do not believe the Clean Air Act provides EPA with the authority to regulate greenhouse gases as it proposes to do so in its Clean Power Rule. With that said, I believe it is in the best interest of Arizona to work with EPA to develop a final rule that results in energy reliability, achievable goals, and adequate flexibility.

The sixth largest state in the country, Arizona encompasses some of the most geologically diverse regions in the nation, from our desert floors to high plateaus, to pine forested mountainous regions. As one might expect, these differences result in diverse climates that have quite different energy demands. For example, the mountainous regions of our state often experience sub-zero temperatures in the winter, whereas the summertime highs at the desert floors have been known to reach temperatures in excess of 120 degrees.

As you can imagine, electricity plays a crucial role in the protection of public health in Arizona, whether it be through heating and cooling, or the delivery of Colorado River water to the central portions of the state. About five million people, representing 80 percent of Arizona's population, live in the desert lowlands. During the hot summer months, electricity consumption peaks as the need for cooling residences, schools, hospitals, and other work places increases. The Central Arizona Project is a 336-mile long system of aqueducts, tunnels, pumps, and pipelines that delivers Arizona's share of the Colorado River to central Arizona, including Phoenix and Tucson. It is the both the single largest resource of renewable water supplies in Arizona, and the largest consumer of power from the Navajo Generating Station, located on tribal land. When our energy production is not sufficient during peak use, Arizona will also import electricity from out-of-state to meet energy demands.

In its proposed Clean Power Plan, EPA uses a nation-wide set of assumptions to develop two emissions reduction goals for each state – an interim goal that is to be achieved between 2020 and 2029, and a final goal to be achieved by 2030. In its supporting documentation, EPA maintains that each state's goals will preserve grid reliability and be achievable without great difficulty through flexible compliance options that the rules offer.

Despite EPA's efforts, the Clean Power Plan still presents three key challenges for Arizona:

(1) When compared to baseline levels in 2012, Arizona must achieve almost a 52 percent reduction in emissions intensity by 2030; this is the second most stringent reduction target in the country.

(2) To comply with the interim goal by 2020, more than 75 percent of Arizona's total reductions must occur by 2020.

(3) The energy needed to deliver Colorado River water to central Arizona is generated on the Navajo Reservation where there is currently no proposed rule or goals.

One of my department's stated goals is to support environmentally responsible economic growth. In our experience, this is best achieved through collaboration. We believe that building partnerships with those who have diverse perspectives is the key to finding creative solutions. We believe that we can work with EPA to adjust the program so that Arizona can overcome its challenges and make significant emission reduction contributions without sacrificing Arizona's economic well-being. To that end, we have chosen a path different from other states. Where some have chosen to immediately issue legal challenges to EPA's proposal, Arizona is acting to collaborate with those stakeholders in Arizona who will be impacted by the rule, our governor's Energy Office, the state's public utility commission and EPA to find an outcome that is workable for the state's current and future energy needs.

EPA's proposed goals for Arizona were set based upon an EPA assumption that all of our existing coal-fired power generation could be immediately transferred to existing natural gas-fired power plants by 2020. Many of these existing natural gas-fired power plants are only used in the summer during peak energy demand and remain idle during the winter months when demand is low. Arizona has already reached out to EPA to explain how energy flows into and out of Arizona, and that it is most appropriate to consider peak demand when determining whether an existing facility is truly under-utilized. After all, electricity generated at a facility in the winter cannot offset the need for electricity during the peak demands experienced in the middle of the summer.

By our calculations, switching from coal to natural gas by 2020 is the only "building block" available to Arizona for meeting EPA's proposed goal. As we have explained to EPA, this implementation issue is at odds with their stated intent that States be provided flexibility amongst the building blocks in achieving the goals. Furthermore, committing to achieve over 75 percent of the second most stringent, final goal in the nation by 2020 would be putting Arizona's energy reliability and public health at risk, which EPA also clearly does not intend by its proposed rule.

To their credit, EPA has listened to our concerns and has suggested that appropriate data-driven analyses could result in adjustments to the Clean Power Plan. On August 22 we provided EPA with a technical demonstration that Arizona's goals do not provide sufficient flexibility. My staff has informed me that EPA is looking through the data and is planning to discuss the problem later this week.

It is also my understanding that EPA will soon propose a rule for power plants located on tribal land. Because our energy needs are so intertwined, Arizona and the Navajo Nation have a great interest in working together to develop a multi-jurisdictional plan that will work for both areas. We look forward to their proposal.

In the end, should EPA choose not to make adjustments to the final rule based upon our real world implementation concerns, litigation remains an option for Arizona. In the meantime, we are hopeful that through collaboration, EPA and Arizona can develop a solution that is environmentally responsible, economically sustainable, and provides energy reliability so that we can prevent expensive and time-consuming legal challenges.

Thank you for this opportunity to provide testimony, and I am happy to answer any questions you might have.