March 28, 2023

The Honorable Thomas R. Carper
Chairman
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington DC 20510

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington DC 20510

Dear Senator Carper and Senator Capito:

America's Power advocates on behalf of coal-fired electricity and its supply chain. We support sensible regulations that will achieve the goals of the Clean Air Act. At the same time, these regulations should not cause undue risks to the reliability of the electricity grid. In addition, we support an all-the-above energy strategy that includes coal because it is affordable, reliable, resilient, and fuel secure.

I am writing to provide information that we hope will be helpful in light of the hearing tomorrow titled "The EPA Good Neighbor Rule: Healthier Air for Downwind States." As you know, the Good Neighbor Rule (aka Ozone Transport Rule) applies to coal, gas, and oil-fired electricity generators in 22 states, as well as many other large industrial sources of nitrogen oxides (NO_x) emissions in 20 states. In addition, EPA has identified six more states which the rule also might cover in the near future. As the rule stands now, it will have a significant impact on two-thirds of the nation's coal fleet.

To comply with clean air regulations over the last two decades, the electric power industry has made substantial investments in state-of-the-art emission control systems. These systems include, but are not limited to, selective catalytic reduction (SCR), selective non-catalytic reduction (SNCR), wet scrubbers, dry scrubbers, sorbent injection, fabric filters, electrostatic precipitators, and activated carbon injection. These clean air regulations include the Title IV Acid Rain program, Ozone Transport Region NO_x Budget Trading program, Clean Air Interstate Rule, Cross-State Air Pollution Rule, Mercury and Air Toxics Standards (MATS), and the Regional Haze Rule. These regulations have led to $85 billion of capital investments in emission controls at U.S. coal-fired power plants during 2001-2017. Approximately $30 billion of that total has been invested in NO_x emission controls. As a result, NO_x emissions from the power sector dropped 77 percent from 2001 levels by 2017. According to EPA data, the power sector now represents approximately 10 percent of U.S. NO_x emissions.

The Ozone Transport Rule's two-phase program for fossil-fueled power plants applies each year during the five-month ozone season (May-September). Phase 1 is scheduled

to start on May 1, roughly one month from now. The emission budgets for Phase 1 assume upgrades to NO_x controls that have already been installed on coal-fired power plants. It makes sense to rely on reasonable upgrades to existing NO_x controls because more than 120,000 MW of coal-fired capacity in states subject to the rule have installed SCR, SNCR, or other NO_x control technologies.

Phase 2 starts in May 2026. The emission budgets for Phase 2 are more stringent than Phase 1 because the Phase 2 emission budgets are based on the installation of SCR on all coal-fired power plants within the affected region. SCR can cost as much as $150 million to $200 million for a coal-fired generating unit. In addition to the emission budgets, the rule includes a backstop NO_x emissions rate that applies in 2024 to all coal-fired units that already have SCR and in 2030 to all other coal-fired units, including those that have not installed SCR. The NO_x allowance penalty imposed on units not achieving the backstop emissions rate could leave utilities with no choice other than to install SCR or shut down prematurely.

EPA projects that the rule will cause the retirement of almost 13,000 MW of coal-fired capacity by 2030, which represents 10 percent of the coal fleet that the agency projects will remain by 2030. However, there are almost 50,000 MW of coal-fired capacity in the states covered by the rule that do not have SCR. Of this total, more than 44,000 MW have announced plans to retire after 2026 and, therefore, are at greater risk of premature retirement when Phase 2 begins in 2026. This does not mean that 44,000 MW would retire prematurely, but this capacity is at risk of premature retirement because of the substantial cost of SCR.

Fifteen years ago, the generating capacity of the nation's coal fleet was more than 300,000 MW. For a variety of reasons, including more stringent environmental controls, the coal fleet has declined to less than 200,000 MW today but still provided 20 percent of U.S. electricity last year. In addition, the coal fleet continues to demonstrate its value during challenging weather conditions. Recently, the coal fleet was able to provide almost 40 percent of the additional electricity needed to heat homes and keep the lights on when Winter Storm Elliott peaked.

Unfortunately, utilities have announced plans to retire more than half of the remaining coal fleet by 2030. These announced retirements do not take into account new EPA rules, such as the Ozone Transport Rule. We estimate that coal retirements will rise sharply during 2026-2028, given EPA's likely compliance schedule for the Transport Rule and five other major rules (Coal Combustion Residuals Rule, Effluent Limitations Guidelines, Regional Haze Rule, CO_2 performance standards for power plants, and a more stringent MATS rule). The amount of retiring coal capacity will depend on the stringency, individually and collectively, of these rules.

Nationwide, some 92,000 MW of coal-fired generation, even though already well-controlled, lack the most expensive emission controls, such as SCR and/or wet/dry scrubbers. It is almost certain that a significant number of coal-fired power plants would retire prematurely if required to install these expensive controls because of regulations mentioned in the paragraph above. The retirement of coal-fired power plants due to EPA rules would add to the retirements already announced. This at-risk coal generation does not include idling of coal-fired generation that could result from these rules.

In light of concerns about future grid reliability, we respectfully urge the committee to ensure that EPA is responsive to the concerns of the Federal Energy Regulatory Commission, North American Electric Reliability Corporation, grid operators, electricity generators, and utility commissioners and designs its rules to avoid reliability problems and minimize retirements of coal and other dispatchable resources. If EPA is willing, the agency could exercise its discretion under the law to choose regulatory options that cause the fewest retirements; defer to states about how to implement rules; make regulations as flexible as possible; and provide adequate time for retiring generating capacity to be replaced with comparable resources that are reliable, affordable, and provide the same amounts of accredited electric generating capacity.

In addition, Congress should pass legislation requiring federal agencies to conduct formal electric reliability assessments for rules and policies that could adversely impact grid reliability. These reliability assessments should evaluate all significant risks to grid reliability that could result from rules and policies and describe the steps that agencies have taken to avoid causing reliability risks. If rules or policies are projected to cause the retirement of dispatchable resources, the reliability assessments should show that adequate accredited replacement capacity will be placed in service by the time retirements are projected to occur.

We continue to assess the impacts of the Ozone Transport Rule and would be pleased to provide any additional information that might be helpful to the committee.

Sincerely,

Michelle Bloodworth
President and CEO