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ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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July 12, 2022

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Regan:

As you should know, the North American Electric Reliability Corporation (NERC) [warned in May](#),¹ that more than half the nation is at elevated risk of forced blackouts this summer—including large regions extending from Louisiana to Wisconsin with increased risks during *normal* summer conditions.

Because of this and other troubling assessments, we wrote the Federal Energy Regulatory Commission (FERC) and the Department of Energy (DOE)² for information to help us assess what federal authorities are doing to prepare for and to alleviate the immediate risks to reliability this summer. We also sought information to assess what is being done to address the broader and growing trend of increasing reliability risks across the nation's electricity systems.

We believe the Environmental Protection Agency (EPA) should also account for its plans and actions to help us assess factors behind both the immediate and the long-term risks to electric reliability across the nation.

In recent months, you announced a suite of EPA actions to target fossil fueled electric generating units, an "EGU Strategy," to drive the Biden Administration's climate agenda.³ This "EGU strategy" includes many major new regulations now under development or proposed – the

¹ "[2022 Summer Reliability Assessment](#)," NERC, May 2022.

² See [Letters](#) to Secretary Jennifer Granholm, Department of Energy and to Chairman Richard Glick and Commissioners, Federal Energy Regulatory Commission, June 6, 2022.

³ EPA Administrator Michael Regan [remarks](#) to CERA week, March 10, 2022. See, also, [June 30, 2022, interview](#) with Administrator Regan on PBS's Newshour and [Letter](#) to Administrator Regan from Senate Environment and Public Works Ranking Member Shelley Moore Capito, February 8, 2022.

Interstate Transport Rule, Regional Haze, Risk and Technology Review for the Mercury Air Toxics Rule, a new set of greenhouse gas performance standards, effluent limitations, and a legacy coal combustion residue rule—all of which directly affect power plants that are essential for reliable electric operations.

We are concerned that EPA actions threaten to accelerate fossil generation retirements, at the very same time electric system operators report growing shortfalls in such baseload capacity will accelerate blackout risks.

For example, EPA is deciding whether to revoke permits for upwards of 50 gigawatts of coal-fired generation to meet requirements of its coal combustion residual rule. And its proposed Federal Implementation Plan to address the interstate transport of ozone may place new economic burdens on 40 gigawatts of coal-fired generation. For perspective, the loss of just over 3 gigawatts of coal-fired generation was a key factor to the current summer reliability crisis in parts of the nation served by the Midcontinent Independent System Operator (MISO).⁴ The loss of just a few more coal-fired units in that region would push electric resource adequacy for certain areas “into dangerous territory,” MISO noted in comments to EPA in February this year.⁵

At a time of widespread economic and inflationary burdens, the last thing this nation needs are agency actions that press headlong into creating a major electricity crisis. Therefore, it is important that Congress have information from EPA to assess how the Agency’s actions are affecting electric grid reliability.

Please respond to the following by July 26, 2022:

1. Describe what specific actions you are taking or are prepared to take to address energy or electricity emergencies this summer in the bulk power system.
2. List all waivers or other emergency actions you are considering or have taken over the past two years in connection with electricity reliability.
3. List all regulatory actions you are considering or have taken over the past two years to alleviate electricity reliability risks.
4. List and provide a description of all interactions with the Department of Energy concerning potential and proposed rulemakings and enforcement activity that may affect the reliable delivery of electricity, including, but not limited to:
 - a. The recent enforcement actions involving the disposal of coal combustion residuals from electric utilities rule,
 - b. The Federal Implementation Plan for the Interstate Transport Rule to address the 2015 Ozone National Ambient Air Quality Standards (Transport Rule FIP),
 - c. Regional Haze rule,

⁴ *Op cit.*, NERC, May 2022

⁵ See Comments of the Midcontinent Independent System Operator in response to EPA request for comment in Regulations.gov, Docket ID number [EPA-HQ-OLEM-2021-0588](#).

- d. Risk and Technology Review for the Mercury Air Toxics Rule,
 - e. Greenhouse gas performance standards, and
 - f. Steam Electric Effluent Limitations Guidelines.
5. List and provide a description of all interactions with the Federal Energy Regulatory Commission concerning potential and proposed rulemakings and enforcement activity that may affect the reliable delivery of electricity, including, but not limited to:
 - a. The recent enforcement actions involving the disposal of coal combustion residuals from electric utilities rule,
 - b. The Federal Implementation Plan for the Interstate Transport Rule to address the 2015 Ozone National Ambient Air Quality Standards (Transport Rule FIP),
 - c. Regional Haze rule,
 - d. Risk and Technology Review for the Mercury Air Toxics Rule,
 - e. Greenhouse gas performance standards, and
 - f. Steam Electric Effluent Limitations Guidelines.
6. List and provide a description of all interactions with states concerning potential and proposed rulemakings and enforcement activity that may affect the reliable delivery of electricity, including, but not limited to:
 - a. The recent enforcement actions involving the disposal of coal combustion residuals from electric utilities rule,
 - b. The Federal Implementation Plan for the Interstate Transport Rule to address the 2015 Ozone National Ambient Air Quality Standards (Transport Rule FIP),
 - c. Regional Haze rule,
 - d. Risk and Technology Review for the Mercury Air Toxics Rule,
 - e. Greenhouse gas performance standards, and
 - f. Steam Electric Effluent Limitations Guidelines.
7. List and provide a description of all interactions with the Independent System Operators, and states concerning potential and proposed rulemakings and enforcement activity that may affect the reliable delivery of electricity, including, but not limited to:
 - a. The recent enforcement actions involving the disposal of coal combustion residuals from electric utilities rule,
 - b. The Federal Implementation Plan for the Interstate Transport Rule to address the 2015 Ozone National Ambient Air Quality Standards (Transport Rule FIP),
 - c. Regional Haze rule,
 - d. Risk and Technology Review for the Mercury Air Toxics Rule,
 - e. Greenhouse gas performance standards, and
 - f. Steam Electric Effluent Limitations Guidelines.
8. In developing its reported "EGU Strategy" to "marry a range of authorities" to regulate the power sector, has EPA evaluated the cumulative impact of the strategy in accelerating plant closures? If so, please provide us with these assessments.

9. How will the June 30 Supreme Court decision in *West Virginia v. Environmental Protection Agency* affect your “EGU Strategy” to regulate sources in the power sector?
10. Regarding the proposed Transport Rule FIP, what specific statutory provisions authorize EPA to impose a federal plan that effectively overrides the electric power sector planning authorities in 26 states?
 - a. What statutory provisions authorize EPA to take actions that directly affect the reliable delivery of power in the bulk power system?
 - b. How does EPA reconcile its authority with the authorities relating to electricity reliability, under the Federal Power Act, provided to the Federal Energy Regulatory Commission?
 - c. Was the decision to impose a Transport Rule FIP instead of approving individual state implementation plans related to the Administration’s EGU Strategy to reduce carbon dioxide emissions in electric power sector?
11. What is the estimated capacity range from existing coal and gas plants that could retire under the additional weight of these new requirements?
 - a. Have you discussed with the relevant federal authorities how such retirements would be offset?

We look forward to your prompt response to this request. Please contact Minority Committee staff with questions concerning this request at (202) 225-3641.

Sincerely,



Cathy McMorris Rodgers
Republican Leader
House Energy and Commerce Committee




David B. McKinley
Ranking Member
Subcommittee on Environment & Climate Change



H. Morgan Griffith
Ranking Member
Subcommittee on Oversight and Investigations




Fred Upton
Member of Congress



Michael C. Burgess, M.D.
Member of Congress


Robert E. Latta
Member of Congress


Adam Kinzinger
Member of Congress


Bill Johnson
Member of Congress



Larry Bucshon
Member of Congress


Richard Hudson
Member of Congress



Earl L. "Buddy" Carter
Member of Congress



Steve Scalise
Member of Congress


Brett Guthrie
Member of Congress


Gus M. Bilirakis
Member of Congress


Billy Long
Member of Congress


Markwayne Mullin
Member of Congress


Tim Walberg
Member of Congress


Jeff Duncan
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Gary Palmer
Member of Congress



Dr. Neal P. Dunn
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John R. Curtis
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Debbie Lesko
Member of Congress



Greg Pence
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Dan Crenshaw
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John Joyce
Member of Congress



Kelly Armstrong
Member of Congress