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HOUSE OF REPRESENTATIVES

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1:02 P.M.

PRESENTATION ON
REGIONAL GREENHOUSE GAS INITIATIVE
(RGGI)

BEFORE:
HONORABLE DARYL D. METCALFE, MAJORITY CHAIRMAN
HONORABLE CRIS DUSH
HONORABLE R. LEE JAMES
HONORABLE CARL WALKER METZGAR
HONORABLE TOMMY SANKEY
HONORABLE PAUL SCHEMEL
HONORABLE DAVID H. ZIMMERMAN
HONORABLE GREG VITALI, DEMOCRATIC CHAIRMAN
HONORABLE MARYLOUISE ISAACSON
HONORABLE LEANNE KRUEGER

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## SUBMITTED WRITTEN TESTIMONY

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MAJORITY CHAIRMAN METCALFE: This meeting of the House Environmental Resources and Energy Committee -- actually, hearing -- is called to order.

And before we get started, I’m going to ask everybody to please rise, and Representative Metzgar, would you lead us in the Pledge?

(The Pledge of Allegiance was recited.)

MAJORITY CHAIRMAN METCALFE: Thank you, sir.

If I could ask our Member-Secretary to call the roll for us.

REPRESENTATIVE DUSH: Yes, Chairman.

(Roll was taken.)

REPRESENTATIVE DUSH: Mr. Chairman, we have a quorum.

MAJORITY CHAIRMAN METCALFE: Thank you, Representative Dush.

Today’s hearing that we’re having is on RGGI, the Regional Greenhouse Gas Initiative, that has been an initiative being sought out by the Governor through
bureaucratic means rather than through legislative approval. And we have had hearings in the past on this issue, on the issue that this is being driven by climate change that is supposedly being used to try and drive us into this RGGI program.

But we did have legislation that was offered by Representative Struzzi that we passed out of the House -- it’s now in the Senate; House Bill 2055? 2025? -- that we passed that would hopefully send a strong message to the Governor that he needs our legislative approval to move forward with this initiative.

But in the meantime, I didn’t want this summer to lapse and then have the expected EQB meeting in September on the RGGI issue without the Legislature having as much information as we can still gather throughout the summer from people, especially who are going to be impacted by this initiative of the Governor, that I believe he still needs our legislative approval to pursue.

Our first guest is Michelle Bloodworth. Ms. Michelle Bloodworth is the President and the CEO---

MINORITY CHAIRMAN VITALI: Mr. Chairman, may I be afforded the opportunity to say a couple of words?

MAJORITY CHAIRMAN METCALFE: Excuse me.

MINORITY CHAIRMAN VITALI: That’s a common courtesy---
MAJORITY CHAIRMAN METCALFE: Excuse me.

MINORITY CHAIRMAN VITALI: --given to Minority Chairmen. May I have that courtesy today?

MAJORITY CHAIRMAN METCALFE: Common courtesy, Representative Vitali, is to not speak until you have been recognized, and I have not recognized you. I am recognizing our first speaker. Thank you.

MINORITY CHAIRMAN VITALI: I'll just say it's an absolute disgrace---

MAJORITY CHAIRMAN METCALFE: Representative Vitali---

MINORITY CHAIRMAN VITALI: ---to not afford me that courtesy.

MAJORITY CHAIRMAN METCALFE: Representative Vitali, you're out of order.

MINORITY CHAIRMAN VITALI: And I'll also say it's an absolute disgrace---

MAJORITY CHAIRMAN METCALFE: Representative Vitali, you are out of order.

MINORITY CHAIRMAN VITALI: ---that of four speakers here, not one of them is a supporter of RGGI---

MAJORITY CHAIRMAN METCALFE: Representative Vitali.

MINORITY CHAIRMAN VITALI: ---and not one of them can explain or defend RGGI.
MAJORITY CHAIRMAN METCALFE: Representative Vitali, you are out of order.

MINORITY CHAIRMAN VITALI: This is just a dog and pony show, and you should be ashamed of yourself for conducting a hearing this way.

MAJORITY CHAIRMAN METCALFE: Well, I was going to afford you the opportunity for closing statements, but it sounds like you have already made it. Thank you, Representative Vitali.

Ms. Michelle Bloodworth, President and CEO of America’s Power. If you could join us at the microphone in front of us here. Thank you for making the trip up here to Pennsylvania today.

MS. BLOODWORTH: Thank you.

MAJORITY CHAIRMAN METCALFE: We appreciate it, and welcome. We look forward to hearing your testimony -- at least the majority of us.

MS. BLOODWORTH: I have been warned.

MINORITY CHAIRMAN VITALI: No, I’m happy to hear your testimony, too. I just want it balanced, to be clear.

MS. BLOODWORTH: Thank you. Thank you. I appreciate that.

MAJORITY CHAIRMAN METCALFE: Representative Vitali, please refrain from turning on your microphone until you are recognized in the future. Thank you.
MS. BLOODWORTH: All right. Well, good afternoon, Chairman Metcalfe, Chairman Vitali, and Members of the Environmental Resources and Energy Committee.

My name is Michelle Bloodworth, and I am President and CEO of America’s Power. We are headquartered in Washington, DC, and we’re a national trade association who solely focuses on coal, electricity, and the coal fleet. Thank you for the opportunity to testify today about the prospect of Pennsylvania joining the Regional Greenhouse Gas Initiative.

At the outset of my testimony, I would like to make three points. First, climate change is a very important issue for all of us because of its environmental and economic consequences. Second, joining RGGI’s cap-and-trade program is not a sensible or meaningful way to address climate change. Third, the nation’s fleet of coal-fired electric generating units is only the number-three source of energy-related carbon emissions in the United States economy. Transportation is first at 45 percent and natural gas is second at 29 percent. Coal is 26 percent of those emissions.

To be clear, there are no real climate change benefits from joining RGGI. That’s because joining RGGI would reduce carbon emissions by a trivial amount.

According to a DEP analysis, CO2 emissions from the U.S.
electricity generation are almost the same regardless of whether Pennsylvania does or does not join RGGI.

Emissions of CO2 from electricity generation in the U.S. average:

- 1.127 billion tons per year over the period that DEP analyzed if Pennsylvania joined RGGI;
- 1.13 billion tons per year if the Commonwealth did not join RGGI.

These numbers mean the reduction in CO2 emissions if Pennsylvania joined RGGI would average 3 million tons per year, which might sound like a large reduction, but it’s not. It’s actually a trivial reduction with no real effect on climate change, and here’s why:

U.S. greenhouse gas emissions totaled more than 7 billion tons in 2018. A reduction of 3 million tons per year if Pennsylvania joined RGGI would equate to a reduction of 0.05 percent in U.S. emissions, which is basically a rounding error for all practical purposes. If you had $10, it would be equivalent to reducing that by half a cent.

More importantly, worldwide greenhouse gas emissions total more than 50 billion tons. Reducing
emissions by 3 million tons would be smaller than a rounding error, and the climate effect would be meaningless.

My last statistic to put the RGGI emissions reduction into perspective is the fact that in 2018, energy-related CO2 emissions increased worldwide by more than 600 million tons. China was responsible for exactly half of this global increase. If Pennsylvania joined RGGI, it would take four decades of emission reductions by RGGI to simply make up for one year of emissions increases by China, and those increases are expected to be even larger in the future.

In short, my point is that Pennsylvania joining RGGI would have no real effect on climate change.

Besides the lack of any real climate change benefits, there are downsides for the State of Pennsylvania in joining RGGI. In particular, it would cause the retirement of fuel-secure coal-fired generation and would increase power prices in Pennsylvania.

Coal-fired generation, both in Pennsylvania and nationally, is essential because it:

- Helps maintain grid reliability;
- It is a highly resilient source of electricity;
• It’s one of the two most fuel-secure electricity sources we have;
• It provides affordable electricity;
• It serves as an insurance policy against spikes in fuel and electricity prices, like during the bomb cyclone or the polar vortex; and
• It also promotes national security because of its resilience and reliability.

And a good example is today. It’s not quite 100 degrees, but it feels like 100 degrees. When you look at the electricity generation of the coal fleet in PJM, it’s providing about 26 percent of all the electricity generated so we can all have nice air-conditioning in this room today, where wind and solar -- and I have nothing against wind and solar. I think we need all resources -- wind and solar combined are providing less than 1.5 of the electricity. And I would submit without the coal fleet, natural gas, and nuclear, we wouldn’t all enjoy the air-conditioning we have today.

As I’m sure you’re aware, the nation’s electricity grid is undergoing profound changes that include the retirement of traditional baseload sources of electricity, especially coal and nuclear. These changes
have certainly become more complicated because of the pandemic.

Much of this retiring capacity is being replaced with natural gas and renewables, each which has a unique role to play as part of a diverse energy portfolio. However, the grid’s increasing dependence along with the retirement of fuel-secure coal and nuclear plants have led to concerns that these trends may be jeopardizing both the reliability and the resilience of the electric grid. Such concerns have been raised by the Department of Energy, the Federal Energy Regulatory, the National Energy Regulatory Commission, grid operators, the National Academy of Sciences, and many others.

Fuel security is important because it makes the grid resilient. The coal fleet provides a high degree of fuel security because the average coal-fired power plants have at least 2 months of on-site fuel supply of coal stockpiled on site. Without fuel-secure electricity sources, our electric supply is more vulnerable to highly disruptive events like extreme weather, cyber, and also physical attacks.

A good example of the importance of fuel security comes from the PJM system, which we study closely. During the polar vortex storm of January of 2018, high electricity demand drove natural gas prices to levels nearly 40 times
higher than they had been the previous month, and a study from NETL, a branch of DOE, concluded that there simply was not enough gas available to supply all of the power plants that needed it during that peak extreme winter weather. For that reason, an additional 26,000 megawatts of coal generation was called on to keep the lights on.

In the six regional power markets, 63 percent of the additional electricity during the polar vortex came from the coal fleet, which is deemed the most resilient of all of the fuel sources during both the bomb cyclone and the polar vortex. PJM’s former CEO, Andy Ott, noted in congressional testimony that PJM “could not have served customers without coal-fired assets.”

In addition to causing premature coal retirements, taxing carbon emissions via RGGI’s cap-and-trade will increase power prices in Pennsylvania. PJM found that if Pennsylvania joined RGGI -- this is according to their own modeling -- power prices across Pennsylvania and the three other RGGI States, including Delaware, Maryland, and New Jersey, would increase power prices as much as 13.2 percent. The remaining PJM States that do not belong to RGGI, according to this same modeling, would see their power prices increase by as much as 8 percent. Therefore, joining RGGI puts Pennsylvania at an economic disadvantage relative to many other States in
the region.

In summary, the coal fleet in Pennsylvania provides an affordable, reliable, resilient, and fuel-secure source of electricity. Joining RGGI would lead to a meaningless reduction in CO2 emissions and would have no effect on climate change, which undercuts the reason for joining RGGI. On the other hand, joining RGGI is likely to cause the premature retirement of more coal-fired generation and higher power prices. Considering the economic consequences that we’re all facing related to the pandemic, neither of these two outcomes is desirable.

Some want to eliminate coal, but that is simply unrealistic and unwise for the reasons I have highlighted. Better technologies are the best strategy to reduce CO2 emissions from the coal fleet. Better technologies are the main reason that for each kilowatt hour of electricity generated from coal today, it emits 90 percent fewer conventional pollutants compared to several decades ago. These technologies took time and sustained effort, but the environmental payoff was well worth it. We should apply these same lessons to reducing carbon emissions.

Thank you again for the opportunity to testify today, and I’m happy to answer any questions.

MAJORITY CHAIRMAN METCALFE: Thank you, ma’am.

Our first question would be from Representative
Schemel.

REPRESENTATIVE SCHEMEL: Thank you, Mr. Chair.

Ms. Bloodworth, I recently read a Wall Street Journal article that said over the next 25 years, we can anticipate 30 to 50 percent of the internal combustion car engines to be replaced by electric vehicles that would be charged off of our electric grid from energy suppliers such as coal. The same article indicated that the marginal amount of coal emissions that you get charging one automobile is significantly less than the amount of emissions -- this would be pollutant emissions -- from a singular, you know, gas-powered automobile.

So two questions. Number one, do you believe that, if this article is true, that as our automobile fleet gets replaced with electric automobiles, that the offset, the benefit from fewer combustion engines running with powered by, you know, electric batteries, fueled by coal-fired power plants, will actually give us, you know, the environmental impact, positive environmental impact, we seek?

And number two, wouldn’t we, or those in your industry, do they anticipate significant increases in demand on the power grid, and if we don’t have coal-fired power plants providing that energy as part of our energy portfolio, from where does it come?
Thank you.

MS. BLOODWORTH: Yes. Well, that’s a great question.

Although I haven’t, I can’t speak exact to the article since I haven’t reviewed it, I would agree with you that certainly electric vehicles replacing gasoline will result in lower carbon emissions.

I would also agree with you that one of the concerns that many policymakers have and those from the Department of Energy, that as demand grows, whether that’s electric vehicles or we recover from the pandemic or hopefully manufacturing comes back, that when we have another polar vortex and we have a bomb cyclone, if we see more retirement, which RGGI would place a lot of challenge on an already challenged coal fleet, that we would not have the generation, the fuel-secure generation available in order to meet rising power demand for electric vehicles and certainly for all the growth that we hope to come back in the future.

MAJORITY CHAIRMAN METCALFE: Thank you,

Representative Schemel.

Representative Vitali.

MINORITY CHAIRMAN VITALI: Thank you.

I’m glad you noted that climate change was an important issue. I mean, you know, some would say it’s an
existential issue, one of the most important issues this planet faces. And scientists also tell us that unless we get to carbon neutrality by 2050, which is approaching, we’re going to suffer terrible, terrible, terrible consequences.

Now, I have sat through a lot of hearings over the years and listened to a lot of people who work for the fossil fuel industry say why this remedy or that remedy won’t work. And to be clear, RGGI is not a cure-all. We need to increase the AEPS. We need to electrify the transportation sector. We need to increase efficiency, energy efficiency. But what I have not heard from people from the fossil fuel industry saying is, how do we, what is your plan to get us to carbon neutrality?

First, do you acknowledge we need to get to carbon neutrality to avoid the worst effects of climate change, and if RGGI is not a piece of it, what is your plan to get to carbon neutrality?

MS. BLOODWORTH: Thank you, Chairman. Oh, that’s a great question.

First of all, like many of you, I have three children, and I do believe that it’s a responsibility of all of us as a part of humankind to be good stewards of the environment, but I do not believe that joining RGGI---

MINORITY CHAIRMAN VITALI: Got that part.
MS. BLOODWORTH: ---would have any meaningful impact on climate change.

MINORITY CHAIRMAN VITALI: Got that part.

MS. BLOODWORTH: What we support is a technology-based approach, and a good example would be conventional air pollutants. Since 1979, the coal fleet and coal owners, power plant owners, have invested almost $100 billion in conventional air pollutants because of research.

   Technology demonstrates---

MINORITY CHAIRMAN VITALI: We’re talking CO2 now, not conventional pollutants. Okay?

MS. BLOODWORTH: Correct.

   And so a good example of what we support is related to technology and demonstration as it relates to carbon. So in the near term, we’re certainly supportive of power plant owners making investments, the replacement rule for the clean power plant, the ACE rule, the Affordable Clean Energy rule.

   Right now, EPA regulates carbon on coal plants, and so they will be deploying heat-rate improvement measures, making the power plants more efficient, which obviously reduces carbon emissions. In the near term, we certainly support high efficiency, low emissions technology, some of the most efficient coal plants in the
United States. Then longer term, with sustained investment, we support, a great example is right here, the largest coal operator, CONSOL Energy, has been awarded and certainly is a leader in technology, has embarked on a project to put in a coal plant, a 300-megawatt coal plant.

MINORITY CHAIRMAN VITALI: Right. But just talking coal out of the equation, you still have an enormous CO2 problem.

MS. BLOODWORTH: Yeah.

MINORITY CHAIRMAN VITALI: How do you propose, if RGGI is not part of it, how do you propose to get to carbon neutrality by 2050 as scientists tell us we must?

MS. BLOODWORTH: And again, the U.S. coal fleet, you could retire every coal plant in the United States.

MINORITY CHAIRMAN VITALI: It’s going to happen because of natural gas.

MS. BLOODWORTH: It provides, it contributes less than 2 percent of the global greenhouse gas emissions. All right?

China, right now there are 250 megawatts, or gigawatts of coal in the United States. China, in the next 5 years, is going to add twice as many as we even have in the United States. So if we don’t invest in technology for fossil fuel, natural gas and coal, carbon capture and sequestration, then we’re not going to be able to provide
all of the other affordable reliables so all of us have electricity and we have it during a bomb cyclone. So we supported a technology-based approach and hope the State of Pennsylvania will support that as well.

Thank you.

MINORITY CHAIRMAN VITALI: Thank you.

MAJORITY CHAIRMAN METCALFE: Representative Lee James.

REPRESENTATIVE JAMES: Thank you, Mr. Chairman.

Thank you for your testimony today. I appreciate that.

I would like to dwell for a moment, I’m going to ask you for an estimate, I think is the best way to put this. As you think forward, if Pennsylvania, if the Commonwealth of Pennsylvania joins RGGI, what would be the effect on two areas: number one, the industries, companies and industries that depend on coal or subsidiaries that depend on coal; and number two, the number of family-sustaining jobs that are at risk should we join RGGI?

Thank you.

MS. BLOODWORTH: Well, according to the Pennsylvania Coal Association, there are approximately 18,000 jobs related to the coal supply chain in Pennsylvania. They contribute about $4 billion to the
The coal industry, like many others, is very capital intensive, and so if we don’t have a coal fleet, then we’re not going to have rail and barge operators, manufacturers and coal producers, to be able, for the coal fleets that are remaining as technology gets better and better deployed, for advanced coal technology, that industry will not be here.

If you look at PJM, the Department of Energy recently did a study. During the pandemic, coal was impacted more than any other fuel. So coal demand was down 44 percent. That affects everybody in the coal supply chain -- coal producer, rail, barge -- 44 percent during the period of March through May compared to prior years March through May.

Well, just about 90 percent of every coal plant in PJM is not even recovering their fixed cost, because there are a lot of distortions in these wholesale electricity markets. And so if Pennsylvania were to join RGGI, that would be another cost that I think you would see significant retirements in Pennsylvania.

REPRESENTATIVE JAMES: Thank you, Mr. Chairman.

MAJORITY CHAIRMAN METCALFE: Thank you,

Representative James.
Representative Dush.

REPRESENTATIVE DUSH: Thank you, Chairman, and thank you, Michelle.

I have lived through, in my region, the reductions in emissions even from the houses and stuff not even putting this stuff out. We used to have the snow turning brown in the winter. But all of the improvements that have just been scrubbing and scrubbing and scrubbing constantly over the last four or five decades have greatly improved the air quality, and the coal industry has been doing a fantastic job with it.

So my question is to you, people keep saying that coal is going to go away. Well, I live in the gas and coal patch, and there is no indication that anybody up there wants either one of them to go away, they want them to thrive, and we also know about the efficiencies in the production of electricity using that.

So do you think that coal, if left to its own devices in Pennsylvania, can continue to thrive? And if you could speak to President Trump’s Coal FIRST program, too, I would appreciate that.

Thank you.

MS. BLOODWORTH: Yes, we absolutely think, contrary to what some think, that the coal industry is not dead. Coal, for all the reasons I mentioned --
reliability, resilience, national security, and affordable electricity -- is not going away.

We are working on a lot of other market reforms. There’s certainly a lot of distortions, you know, from Federal ITC, PTC tax incentives that the renewable industry gets. And again, I don’t have anything against the renewable industry, but when you’re in a wholesale electricity market, it puts the coal fleet at a significant disadvantage, and so we also think that the attribute of fuel security should be valued in these markets.

So we think as those reforms take place, whether that’s Federal reforms, State reforms, region, and PJM reforms, then we think that the coal fleet will be allowed to compete. That’s all we ask for, is the opportunity to compete on a level playing field, again, while technology like the DOE’s Coal FIRST program.

So Coal FIRST is Flexible, Innovative, Transformative, Resilient. We very much support their investment in more flexible modular, smaller coal units, like what CONSOL is developing, and then they’re also looking at and working certainly to export that technology to countries like China on carbon-capture utilization and storage. But DOE has invested about $81 million in coal-clean technology, and we certainly commend and support their efforts.
REPRESENTATIVE DUSH: All right. Thank you, Michelle.

And just one closing comment from the national security side of things. I’m Chair of the ALEC National Security Task Force, and I will tell you that China is actively seeking for us to rid ourselves of the coal fleet while they’re in the middle of all this production.

MS. BLOODWORTH: Right.

REPRESENTATIVE DUSH: And, they’re not doing the scrubbing that we are doing---

MS. BLOODWORTH: Right.

REPRESENTATIVE DUSH: ---making us less secure with our energy supply. You mentioned hacking and that sort of thing. Those are very valid concerns that I know the Chinese would be happy to see us rid our coal fleet.

MS. BLOODWORTH: That’s very, very true. Thank you.

MAJORITY CHAIRMAN METCALFE: Representative Krueger.

REPRESENTATIVE KRUEGER: Thank you, Mr. Chairman. Thank you, Ms. Bloodworth, for joining us here today.

I wanted to correct the record on something. In the first two pages of your testimony, you say that Pennsylvania joining RGGI would reduce CO2 emissions by a
trivial amount, and you cite 3 million tons a year. Well, according to the DEP, joining RGGI would actually mean a reduction of 188 million tons of carbon emissions over the first 8 years of the program, an average of 23 million a year. So I just wanted to note that for the record.

It’s clear that coal generation is on the decline here in Pennsylvania, even without RGGI. Generation is one-third of what it was when the President took office 4 years ago. No new plants are under construction, and the few remaining plants are rapidly approaching retirement.

Now, my colleagues who represent coal country will often talk about the impact of the loss of good-paying union jobs. So what is your industry doing right now to assist impacted communities and workers in the face of a declining industry?

MS. BLOODWORTH: Well, my association solely focuses on coal electricity, so what we’re trying to do, which obviously will indirectly benefit communities for workers of the coal supply chain, is to ensure that we do not have any premature coal retirements. Because when you prematurely retire a coal plant, it’s the people in the communities who lose the jobs and it’s the people who pay higher electricity prices, and they’re going to pay the stranded cost for that investment.
And so to replace those, whether that’s with natural gas or whether that’s with renewables, is going to result in higher electricity prices, because if you look at the levelized cost of electricity right now of a coal plant, which is looking at the all-in costs, and you compare that to building new renewables -- solar, wind, even building a new natural gas plant -- on a national average basis, it is still a better investment to retain that coal plant, just like whether you’re deciding to buy a new car or keep the one that you have because it’s already paid off or it has already depreciated and the only costs you have is your fuel, your gasoline. That’s the same thing with a coal plant.

And so what we’re focused on is programs that will increase the efficiency of coal plants that still have a lot of years of life, of value, to provide all of those attributes, that when we turn the light on that we all still want, that intermittent resources by themselves or natural gas by themselves cannot provide what the current technology that is out there today.

REPRESENTATIVE KRUEGER: So you didn’t directly answer my question. I understand that you represent a trade association, but your members are companies who have been extremely profitable. What are they doing right now to help their employees who have driven their profit margin
in the midst of this energy transition?

MS. BLOODWORTH: Well, the members that I have
certainly invest in all of the communities that they are a
part of.

One of the reasons that CONSOL is investing in
one of the most advanced coal technology projects is
because it’s going to benefit them and allow them to either
keep workers that they have or hire new workers. All of
the taxes that this industry pays right now benefits all of
the communities and rural areas in Pennsylvania. That’s
what we’re advocating does not go away.

REPRESENTATIVE KRUEGER: The last question.

Do you have any idea how much in taxes your
member paid in Pennsylvania last year?

MS. BLOODWORTH: Taxes? No, but we could follow
up with you on that.

REPRESENTATIVE KRUEGER: Thank you.

MAJORITY CHAIRMAN METCALFE: Representative
Sankey.

REPRESENTATIVE SANKEY: Thank you, Chairman, and
thank you, Michelle.

I guess I have a question and a brief comment.

And, Michelle, the best approximate answer you
can get: Do you know how many coal power plants are
planned or under construction in the world?
MS. BLOODWORTH: Yes. There’s actually about 500 gigawatts, which would be, between 2021 and 2025—

REPRESENTATIVE SANKEY: Okay.

MS. BLOODWORTH: ---there will be about 900 coal-generating units built within five countries, the largest one being China.

REPRESENTATIVE SANKEY: And how many of those in the United States?

MS. BLOODWORTH: None.

REPRESENTATIVE SANKEY: Okay. That’s kind of what I thought, but I didn’t know the number. I had heard lots of numbers, but I wanted to verify.

So these countries who are probably going to buy coal from us---

MS. BLOODWORTH: Right.

REPRESENTATIVE SANKEY: ---can find a way to produce electricity cheaper and manufacture it by buying coal from the United States and shipping it the whole way around the world to power their homes and their businesses.

I think what we get lost in, and I’ll give you a little background on myself. I have a zero-percent lifetime voting record with most of the environmental groups. But in 2016, I was awarded the County Conservation’s Environmental Legislator of the Year. So I would say that to some, we have done a lot of work on the
environment, and others don’t feel that way, but that’s just where I come from. And I think that we get a narrative kind of pushed about maybe not everyone completely understands the impact of coal, so I’m for all above, too.

What we run into is in order to build, make solar panels, you need rare-earth elements, which that means fire up the D11 bulldozers and burn 400 gallons of diesel fuel a shift in order to get the rare-earth elements. That’s great. The same goes with windmills, which are made out of steel and concrete, and there’s two important ingredients in steel and concrete, and it’s coal.

And I’m not advocating for one side or another, and I’m adamantly opposed to RGGI because I feel it’s a tax. But I just think that not everybody really knows that in order to build solar panels and in order to build windmills, you need to basically follow, you need coal and you need the process of mining coal, just the same. So I just wanted to make that a point.

MS. BLOODWORTH: Thank you. No, that’s a great point.

And I think, I mean, every resource has its attributes and they all have its disadvantages and advantages, and I just feel like people try to target coal more. Certainly coal is continuing to try to invest in
technology and has made significant strides in reducing
conventional pollutants since 1979.

Thank you.

MAJORITY CHAIRMAN METCALFE: Thank you, Representative Sankey.

You said 900 coal-fired plants you are expecting
to be built between 2021 and 2025?

MS. BLOODWORTH: If you assume the size of them
is about 600 megawatts apiece, yes.

MAJORITY CHAIRMAN METCALFE: So it would be about
900. And you said China is going to build the most. Who
are the -- you said five countries? India is one of them,
or---

MS. BLOODWORTH: India is another one.

All right. So China, India, Turkey, Indonesia,
and Vietnam. I can send you the report if you want to see
it.

MAJORITY CHAIRMAN METCALFE: Yeah, that would be
great. We would appreciate having the extra information,
because I think that’s, I think that’s naïveté of some of
the people out there advocating that the United States
should go to zero fossil fuel use.

MS. BLOODWORTH: Correct.

MAJORITY CHAIRMAN METCALFE: They don’t
understand what provides the electricity in their home
during hot days like today or cold days like we have seen, especially in Pennsylvania, during the wintertime. They don’t understand that the byproducts of the oil and gas industry are providing many of the plastics that you’re seeing in the medical rooms where people are being treated for coronavirus now. They don’t understand that the cell phones that they’re carrying around are also, the cases for those are byproducts of that same industry, the fossil fuel industry.

MS. BLOODWORTH: Yes.

MAJORITY CHAIRMAN METCALFE: So this lunatic position of eliminating all fossil fuels is like the lunatic position of eliminating all of our police force and of tearing down history, as we have been seeing happening across the nation.

So we thank you for helping to bring some additional information to this Committee as we continue with this dialogue and debate in Pennsylvania, and we appreciate you making the trip here.

MS. BLOODWORTH: Thank you so much.

MAJORITY CHAIRMAN METCALFE: And thank you for your answers today and your testimony. Have a great day. Thank you.

Our next testifier is a gentleman that we have heard from in the past at one of our hearings,
Mr. Shawn Steffee. He is the Executive Board Trustee/Business Agent for Boilermakers Local 154.

Today, my understanding is some of his testimony is going to have some additional information, because the last time he joined us, I think it was last year -- or February of this year. It seems like last year with all of the last 4 months of the virus battle and the battle against the Wolf response to the virus that has been overreached further than we have seen in any other State. So to look to your past testimony, this time you come before us with additional information from some of the statewide labor organizations that have come out in support of continuing to move us forward with coal in Pennsylvania and ensuring that your jobs are protected.

So I look forward to hearing from you. Thank you for joining us again, sir.

MR. STEFFEE: Okay.

Good afternoon, Chairman Metcalfe and Committee Members, and thanks again for this opportunity to be here again.

As you know, I am the Boilermaker Business Agent. We have about 1500 members. I’m also joined by my business manager here today.

So we basically all noted Governor Wolf. The DEP, environmental groups, progressive politicians, support
our Governor through the Executive Order to join a
multistate program called RGGI. Okay? And through this
Executive Order, he has taken to silencing our voters and
he is also silencing the Legislators on both sides, the
House and the Senate, not giving them dual chance to
represent their districts. Okay?

We know this is a fact that this will crush
Pennsylvania as a leader in electricity generation. It
will cause massive job loss, and it will bring economic
distress on our communities, school districts, and counties
that count on these facilities, these coal-fired power
plants.

This is a fact that nobody denies, and Governor
Wolf still pursues this endeavor, even though we’re in the
face of this pandemic. This is just a flat-out job killer,
and these are jobs that are still working right now. We’re
essential workers making electricity. We’re still working.

An unprecedented alliance is formed. It’s called
the PA Power, or Power PA Jobs. This is all organized
labor and the building trades, our State building trades
labor council, our local building trades councils, our coal
and gas industry leaders, bipartisan support on both the
House and Senate. We got manufacturing leaders. All
oppose RGGI. Every one of us opposes RGGI. It’s not a
good idea. It’s all risk and no reward.
AQTAC and the CAC committees both refused to
give, by a majority vote, did not endorse RGGI through the
DEP, their regulations. That’s unprecedented.

But now I would like to ask Representative
Vitali, your closing remarks before voting “no” on
House Bill 2025 was half true. Energy Harbor does support
RGGI. The Bruce Mansfield coal plant did close, but one
thing you left out, they had a tremendous fire there
previously that really hampered their operations, making it
a pretty easy choice to close.

The Beaver Valley nuclear plant did stay open,
and now they advocate their clean nuclear energy, and they
do sit in Pennsylvania condemning coal and gas. But what
you left out was Energy Harbor has four massive coal plants
just across the border in Ohio and West Virginia where they
are investing millions to strengthen their coal fleet with
10- and 12-week outages this spring during the COVID-19
pandemic. I know this, because Boilermakers manned them
jobs.

AEP, who owns a coal-fired power plant in
Brilliant, Ohio, a stone’s throw away across the border,
also had a 10-week outage this spring, and now, right now
in July, is investing $50 million on a dry ash system that
includes new silos and baghouses on all three of their
coal-fired units.
West Virginia and Ohio are applauding our effort to join RGGI, which they refuse to, looking to capitalize on our stupidity, all in the name of CO2 emissions that will not change. I sent you a map. This is out of the U.S. Energy Magazine. I had it circled. It’s a little bit hard, but the black is coal, the orange is gas, and if you can see that, our border is surrounded by these coal plants I’m talking about and more. And if anybody watches the weather, I don’t know where it’s mostly coming from, but I’ll tell you, it’s blowing right back in Pennsylvania.

So with that, I would like to just say, do you know how many outages I had at my coal-fired plants in Pennsylvania this year? I had zero. And this wasn’t the result of COVID-19, it was another disease called RGGI. That’s why I didn’t have these outages, because they don’t want to invest no money because they don’t know what’s going on. Okay?

Representative Vitali, you adamantly push to eliminate fossil fuels and the industry that use them. You praise renewables and believe they are the answer to climate change and our electricity needs. But the big thing you fail to acknowledge, they need massive amounts of fossil fuels, rare-earth minerals, and potent greenhouse gases like sulfur trifluoride, 23,000 times more potent than CO2; nitrogen trifluoride, 17,000 times more potent
than CO2, used in cleaning agents in the solar manufacturing, and they still need energy-intensive industry like our steel mills just to even exist. But here’s the real catch: They must be backed up by a fossil fuel electricity power plant, because no matter how you slice it, they are an intermittent, unreliable source of electricity.

Antibiotics, syringes, heart valves, flexible tubing, ventilators, MRI machines, face shields, masks, IVs, bottles of medicines, the packaging to keep them sterile, are all derived from fossil fuels, mainly natural gas, and this happens through petrochemical plants, which you don’t agree with.

So Representative Madden made a great statement before voting “no” on House Bill 2025. We can’t even recycle plastic bags, so I want to know how Pennsylvania is going to recycle millions of solar panels that are considered hazardous waste, tens of thousands of windmill blades that cannot be recycled, and this is a huge problem already in the world and already in Pennsylvania. And I just had a quick picture. Here’s windmill blades laying in the State of Wyoming that they are filling their landfills with right there.

Representative Otten told me last time that I was here that we need to plant more trees and use more
renewables, so I looked up the specs on a proposed solar farm back in York, Pennsylvania. This solar farm would contain 250,000 solar PV panels on 500 acres to produce 80 megawatts of power, and this is if the sun is shining it can produce 80 megawatts of power.

So then I looked at Homer City, Keystone, and Conemaugh, my three big coal-fired plants. They sit on a combined 6,850 acres and produce 5,605 megawatts of on-demand, reliable electricity. So to replace them, Pennsylvania would need 70 solar farms, 17.5 million PV solar panels on 37,800 acres.

So then I looked at a wind farm. The Bear Creek Wind Farm in Luzerne County is one of the largest in Pennsylvania. It has 12 2-megawatt windmills which can produce 24 megawatts if the wind is blowing. And today I drove over Cresson Mountain towards Altoona at 9 this morning: There wasn’t a one windmill that was blowing, none of them. There wasn’t enough wind out there to blow out a candle today.

So if we were going to use windmills to replace our coal-fired plants, we would need 2,800 windmills on 140,000 acres. So just how many trees are we planting, Representative Otten? Because right here, I also sent you this: This is the average industrial wind facilities, the land, and if you look on there, it’s pretty amazing. And I
think I’m conservative on my numbers. On the last page, it tells you the rule of thumb on what the windmills need by megawatts -- 1.5, 2.0.

And also what I thought was real funny was, all this land that we use has to become restricted. You want to know why? Because in Pennsylvania, we have a thing called winter, and when they sit there and don’t spin, they get a lot of ice formation on them blades, and I don’t know who in the hell wants to be around them facilities when they start spinning again and 200-foot chunks of ice start blowing off of them. So it’s basically restricted.

So I also had a snapshot of on July 6th on the PJM grid at 4 p.m. Okay? As you know, that day was hot, humid, and stagnant, and just like my other speaker here explained, coal, 35,000 megawatts, 250 megawatts of solar, and 450 megawatts of wind. So the PJM serves 65 million customers in 13 States. Just how many of them was getting renewable electricity, okay? But I bet not one call was made to their electricity provider asking them to shut their electric off because they pay for 100 percent renewable electricity.

Microsoft, Google, and Tesla and more claim they are 100 percent renewable. That’s a complete lie. They are tied to the grid. As you can see, they do not, they can’t say, hey, you’re going to get renewables; you’re
going to get coal; you’re going to get nuclear. It goes
into the same place. So people who believe they are
receiving 100 percent green renewable electricity from the
box they checked for their provider is simply not true.
There’s a word for this; it’s called “greenwashing.”

I have given you the electricity prices from the
EIA, the U.S. Energy Information Administration. You have
the chart, 2019 to 2020. I keep hearing that our
electricity prices are going to go down. If you look on
that chart, the RGGI States are the highest in the country.
Pennsylvania is below the national average. So everybody
keeps telling me that electricity prices are going to go
down. So am I misreading this chart here, or can somebody
tell me how they got low electricity prices and how is ours
going to go lower?

Some of these RGGI States are even higher than
Alaska. Okay? I don’t know, I’m interested; maybe
somebody can tell me when we get done here.

So Governor Wolf keeps telling us RGGI will
produce high-paying, union green jobs. The projected
growth will be unmatched. I showed you great
family-sustaining, blue-collar jobs, my man-hours, the
wages, the tax revenue, but I’m still waiting to see one
specific green union-job project to compare them to.
Nobody showed me one green job yet that I can compare my
great family-sustaining jobs to.

Here’s one I really enjoyed: the biomasses, the number-one renewable energy in five of the RGGI States. So I looked up the McNeil biomass power plant in Vermont. This power plant burns 400,000 tons of trees a year. That’s 30 cords an hour, for 50 megawatts, and they are considered a renewable energy? And they got 44 of these biomass plants in the RGGI States.

So now I get asked by these nonprofit environmental organizations like the Sierra Club and PennFuture that take millions in donations from billionaire renewable investors and timber investment titans to push an agenda that they will just profit from. So I ask you, just watch the Planet of the Humans documentary film viewed 8 million times on YouTube. This was written and produced by high-profile environmentalists who once were a part of the very fabric the climate movement represented. They could no longer sit silent regarding the lies and corruptness surrounding the renewable energy industry. You’ll be left speechless.

So after watching that movie, I went and seen one of the Sierra Club’s big donors. His name is Jeremy Grantham, and I looked him up on Wikipedia. He has given millions to the Sierra Club, and here’s what it says of his big timber investment: “Grantham is known to be a
strong advocate for investments in the timber industry that
also relies on trees for biomass/biofuel...." Okay? He
has given millions to the Beyond Coal campaign for the
Sierra Club. I don’t know, we’re going to be cutting a
hell of a lot of trees down if we join the renewable
industry, ain’t we? Somebody is going to profit from
hundreds of thousands of acres being cut.

In closing, Mr. Chairman, Local 154 members have
left their families in Pennsylvania during the COVID-19
pandemic to work in Ohio and West Virginia. They have kept
our local coal and gas plants functioning, making repairs
on four shutdowns, working 12-hour shifts on the Fourth of
July around the clock the whole week in 115-degree working
conditions, and your electricity never faltered, not one
time. Your air-conditioners and your electricity never
shut off. But our Governor wants to eliminate thousands of
these hardworking, skilled union jobs for a multistate
carbon tax filled with smoke and mirrors.

Pennsylvania has a chance to be the energy hub of
the Northeast, and we can also do this being good stewards
of the environment with technology like carbon capture,
creating phenomenal family-sustaining, blue-collar growth,
not projected low-paying green jobs.

The time has come for the rubber to hit the road,
and I am choosing the car powered by fossil fuels and the
men and women of the Power PA Jobs Alliance driving it.

        Thank you.

MAJORITY CHAIRMAN METCALFE: Thank you, sir.

        Our first question is from Representative

Metzgar.

REPRESENTATIVE METZGAR: Thank you, Mr. Chairman.

        And thank you for the tremendous testimony. I

appreciate that. And I mostly thank you for the work that

you and your members do to not only electrify Pennsylvania

but also to power the entire PJM grid. We appreciate that.

You had started out by saying that you felt that

Members of the General Assembly should have a say in this

issue, and that was you referenced the bill that we had

before the House to simply say that, that the General

Assembly should have some say in this, that we’re the

closest to the people, that we’re not, you know, the

Governor in his Mansion.

I guess I’m wondering, what do you and your

members think of, you know, the rationale and your thought

process of the Members of the General Assembly who want to

shirk that responsibility and not have any say in this?

MR. STEFFEE: Here’s what I say to that.

You guys were elected to represent us. You

can’t hit the easy button. This isn’t an easy topic. It

needs to be debated. There are so many competent
individuals and industry leaders that are telling you this is no good.

There are so many regulations that don’t even hold water. We went right through it. We got so many people even that AQTC and the CAC couldn’t endorse it. It needs to go, and I need to have my voice heard and our union voices heard and the people that live in my hometown in Indiana County, our voices heard, and we’re getting denied that.

Senator Pittman, Representative Struzzi, they have all stepped up. They’re doing a great job for my hometown in Indiana, but it’s going to get silenced through one. That’s not what it’s about in Pennsylvania. That’s why you guys are here, and you should have the opportunity to debate. Nobody should have that authority, not one person.

It needs to get debated. Things need to be a little bit more clear, and that’s kind of where I stand on that.

MAJORITY CHAIRMAN METCALFE: Thank you, Representative Metzgar.

Representative Vitali.

MINORITY CHAIRMAN VITALI: Yeah, listen, you’re a blunt guy so I’m going to give it to you blunt.

MR. STEFFEE: Yes, I am.
MINORITY CHAIRMAN VITALI: This idea that this bill was all about giving the people and the Legislators a say is total bull and you know it.

MR. STEFFEE: It’s not.

MINORITY CHAIRMAN VITALI: It is about killing RGGI. That’s all it’s about.

The RGGI process has a -- the regulatory process has a lot of opportunity for input. That bill had -- the hearing process has a lot of input. All this is about is killing RGGI and protecting your jobs.

Governor Wolf is smart enough to understand that climate change is the most serious problem facing the nation. Are you smart enough to understand the seriousness of climate change?

MR. STEFFEE: If you’re so worried about climate change---

MINORITY CHAIRMAN VITALI: I am.

MR. STEFFEE: ---why not implement carbon capture right now and reduce the carbon emissions by 90 percent. Why don’t you admit that you need a massive amount of fossil fuels to---

MINORITY CHAIRMAN VITALI: No, I introduced a bill with carbon capture and sequestration. It’s not economically feasible.

MR. STEFFEE: Right now, North Dakota---
MINORITY CHAIRMAN VITALI: Put it on your coal plants then. Put carbon capture and sequestration on your coal plants and we don’t have a problem. That’s bull.

MR. STEFFEE: So what do you want me to do, fund your renewable energies?

MINORITY CHAIRMAN VITALI: My question for you is where is your sense of social responsibility? What about your---

MR. STEFFEE: My sense of social responsibility don’t cause---

MINORITY CHAIRMAN VITALI: Listen, where are your kids, what about your kids---

MAJORITY CHAIRMAN METCALFE: Representative Vitali, Representative Vitali, you’re the Minority Chairman. How about a little respect for our guest who took time out of his day to be here. You don’t have to yell and holler at him.

MINORITY CHAIRMAN VITALI: Well, if he was respectful, maybe I would give it to him in kind.

MAJORITY CHAIRMAN METCALFE: You and I, you and I might choose to holler at each other, but don’t sit here and holler at an invited guest of this Committee.

MINORITY CHAIRMAN VITALI: Well, he just hollered at us for about 20 minutes, so.
MAJORITY CHAIRMAN METCALFE: Representative Vitali---

MR. STEFFEE: So I’ll answer your question calmly.

So if we don’t take care of this bill, the Executive Order on RGGI, so next year, what happens if he says, hey, you know what, we got too many CO2 emissions from cars. We’re going to initiate the Transportation and Climate Initiative, and I’m going to tax the hell out of you on gasoline. You’re going to pay $10 a gallon, and I’m going to force you to buy an electric car. Do you have an electric car?

MINORITY CHAIRMAN VITALI: What are you going to do in 2050 when sea levels rise---

MAJORITY CHAIRMAN METCALFE: Representative Vitali---

MINORITY CHAIRMAN VITALI: ---and our forests are on fire?

MAJORITY CHAIRMAN METCALFE: Representative Vitali---

MINORITY CHAIRMAN VITALI: What are you going to do with that? What are you going to do with all the effects of climate change, just ignore them until then?

MR. STEFFEE: Listen, Representative Vitali, I got a couple words for you here.
Right now, you have a small sector of people in this State that absolutely follow their green, no electric. They’re called Amish.

MINORITY CHAIRMAN VITALI: Yeah.

MR. STEFFEE: I’ll buy you a horse and buggy right now if you want to live that lifestyle.

MINORITY CHAIRMAN VITALI: You’re not about jobs. You’re about your own jobs, and that’s selfish and it lacks responsibility.

MR. STEFFEE: You want the luxuries. Your shoes, everything from your shoes to your tie—

MINORITY CHAIRMAN VITALI: And labor unions need to show some social responsibility—

MR. STEFFEE: —are driven by fossil fuels.

MINORITY CHAIRMAN VITALI: —and labor unions need to think more about their own jobs—

MR. STEFFEE: I’m thinking about them.

MINORITY CHAIRMAN VITALI: —and more about the society in general.

MAJORITY CHAIRMAN METCALFE: Representative Vitali, Representative Vitali, if you want to follow the model that we’ll set out by calling business owners and Legislators cowards who actually want people to be able to have their jobs back and follow that model and insult guests, you can do that on your own time but not with this
Committee’s time. Please shut your microphone off. We’re done with your engagement with this guest.

MR. STEFFEE: Thank you very much, Chairman Metcalfe.

MAJORITY CHAIRMAN METCALFE: We have a couple of other Members, if you wouldn’t mind, sir?

MR. STEFFEE: Not a problem.

MAJORITY CHAIRMAN METCALFE: They’ll be more hospitable.

MR. STEFFEE: Okay.

MAJORITY CHAIRMAN METCALFE: Representative Dush.

REPRESENTATIVE DUSH: Thank you, Shawn. Thank you, Chairman. Shawn, you’re one of those competent individuals representing the people you mentioned before. We, all the biomass, the timber and stuff like that, they got to take carbon-burning machines out there to harvest that. All of these different things that are totally left off the table, it really -- well, the discussion of it, it’s all one-sided.

So one of the things I definitely want to ask is, most of the large statewide labor organizations oppose RGGI. Why would and should labor unions outside of our area consider this? I mean, what’s the impact going to be in the shift in the labor market as well as I know these
bordering States, they’re anxious to get those wages and get the people to move down there.

MR. STEFFEE: Absolutely. West Virginia, Ohio, and Kentucky, they’ll love it.

I mean, if RGGI is such a good plan to cut the climate and to raise funds for their States, why would West Virginia and Ohio not want to join it. Okay? Why would they not want to join? I’ll tell you why, because they’re going to capitalize. They’re going to become the leader in electricity generation, and we’re going to be left behind.

We got great potential here. The last speaker spoke of the carbon capture at CONSOL Energy. Representative Vitali, he says he sat there. Right now in North Dakota, Milton R. Young Station, a 1970s-era carbon capture plant, or coal facility, is building the largest CCS sequestered unit in the world right now. If North Dakota can do it, why can’t we do it in Pennsylvania? We got all the abundant resources. We have the formations. We can do it, but right now, we’re pushing ourselves to lose.

MAJORITY CHAIRMAN METCALFE: Thank you, Representative Dush.

Representative James.

REPRESENTATIVE JAMES: Thank you, Mr. Chairman.
Thank you for your very powerful testimony.

Right now in Pennsylvania, we’re operating with a roughly $33 billion budget, but we only have an estimated $30 billion available to pay all of our bills. That’s a problem.

Forcing jobs out of Pennsylvania, closing businesses, closing plants, these are all terrible ideas, and the resources that we need as a Legislature to pay all these bills for human services, for teaching, et cetera, come from taxes which we pay, W-2 wage taxes and other sources.

So I will take you back to your original opening comment in which you mentioned the potential for job loss and then moved on for the rest of your powerful testimony. As in the first testifier, can you give us an idea of the number of estimated jobs at risk and the impact on Pennsylvania businesses which exist today, please.

MR. STEFFEE: I mean, I can’t give you a complete number in the building trades organizations. I’m thinking there are somewhere around 60-some thousand, and we all play a role in these coal and gas facilities, petrochemical plants.

For me, it’s 1500 members. If them plants close, I work in the fossil fuel industry, and if we don’t want to build petrochemical plants and use our coal-fired fleets
and new gas plants, my members are moving on. They’re not sticking around for a 24,000-a-year job squeegeeing off solar panels. Okay? They’re going. They’re skilled workers. They’re skilled, high-pressure welders. They’re going to where the work is. They’re going to pick up their families and they’re going, and it will be tremendous.

But the thing of it is, and like I explained, and the former speaker here has talked about the CONSOL coal project, do you know how many building trades unions will have jobs from something like that, all of our jurisdictions that intertwine -- the piping, the insulators, the steelworkers, the ironworkers, the millworkers. We all will get a piece of that, and we’ll all continue to work, and they’re great family-sustaining, blue-collar jobs.

So I don’t know what the ultimate number would be on what the job loss will be, but I can tell you, you are going to cripple a lot of towns that have not seen any renewable energy jobs and it has been coal and gas. That’s what, you know, that’s kind of where I can leave it with you.

REPRESENTATIVE JAMES: Thank you.

Thank you, Mr. Chairman.

MAJORITY CHAIRMAN METCALFE: Thank you,

Representative James.
And since you were here with us back in February during the time that we had worked on House Bill 2025 on the Floor, during that time frame, we received some communications from the PA AFL-CIO and from the Pennsylvania State Building and Construction Trades Council. I understand that they both have come out statewide now in support of your position, which is to preserve these jobs, protect these jobs---

MR. STEFFEE: Yes, sir.

MAJORITY CHAIRMAN METCALFE: ---don’t enlist us in this scheme of RGGI.

MR. STEFFEE: Yes. They were also a part of the alliance that I spoke about. I must have missed them. But Rick Bloomingdale at the Pennsylvania AFL-CIO, he is with us. Frank Sirianni, he is with us. Tom Melcher, Pittsburgh Building Trades, South-Central Building Trades, North-Central Building Trades, Philadelphia Building Trades, we all oppose RGGI, every one of us, and that’s why I’m saying that’s the car I’m getting in. That’s the people I want to move forward with.

MAJORITY CHAIRMAN METCALFE: Thank you, sir.

I appreciate your time with us today.

MR. STEFFEE: Thank you, sir.

MAJORITY CHAIRMAN METCALFE: Thank you for your excellent testimony.
MR. STEFFEE: I look forward to doing it again.

MAJORITY CHAIRMAN METCALFE: Thank you. Have a good day, sir.

Our next testifier will be Ms. Ashley Klingensmith. She’s the State Director of Americans for Prosperity.

Good afternoon.

MS. KLINGENSMITH: Good afternoon. How are you?

MAJORITY CHAIRMAN METCALFE: Good to see you.

Thanks for coming and joining us today.

MS. KLINGENSMITH: Thanks so much for having me.

Well, Chairman Metcalfe, Chairman Vitali, all the Members of the Committee, it is a great pleasure to be here on behalf of the tens of thousands of Americans for Prosperity activists across the Keystone State.

I want to start my comments by thanking this Committee and the full House for the passage of House Bill 2025. We applaud bipartisan efforts to safeguard the integrity of the regulatory process by upholding the General Assembly’s role in determining the public policies of the Commonwealth. We hope your colleagues in the Senate will follow your lead and swiftly consider legislation.

My testimony today, though, is going to focus on four key aspects. So first, the process for joining RGGI; second, energy poverty in Pennsylvania; third, the futility
of RGGI and its unintended consequences; and fourth, the
faulty premises from the DEP.

So first, the process for joining RGGI:

At Americans for Prosperity, we believe it is a
reasonable expectation that if the Commonwealth is going to
enact a regressive energy tax with significant implications
for every family and business in this State, as a matter of
principle and good governance, their elected officials
should have a say in the matter.

Requiring legislative consent for Pennsylvania to
join or enact any cap-and-trade program such as RGGI is, in
our view, the only sensible course of action. So by
providing unequivocal clarification of the Legislature’s
authority to approve substantive changes to existing State
policies, House Bill 2025 safeguards Pennsylvanians against
administrative overreach that would really overhaul the
economy and quality of life of every community in this
State. Enabling Executive branch ratification of RGGI
membership without legislative and electoral accountability
is contrary to the core principles, like the Separation of
Powers as well as Pennsylvania’s Air Pollution Control Act.

So second, energy poverty in Pennsylvania:

RGGI is a tax on energy with highly questionable
benefits and tangible costs, especially for the least
fortunate already experiencing energy poverty. Put simply,
joining RGGI is “all pain, no gain” for hardworking Pennsylvanians. Note that economists consider an “affordable” energy bill to be 6 percent of income, but many families around the country pay a lot more.

According to the most recent results from Energy Information Agency’s Residential Energy Consumption Survey, nearly one-third of U.S. households -- that’s 31 percent -- reported facing a challenge in paying energy bills or sustaining adequate heating and cooling in their homes in 2015. Furthermore, about one in five households reported reducing or relinquishing necessities such as food and medicine just to pay an energy bill.

Naturally, our Commonwealth is not an exception to that national rule. According to the Home Energy Affordability Gap, more than 840,000 households in Pennsylvania are experiencing energy insecurity, spending more than 10 percent of their annual income on their home energy bills. So in other words, over 16 percent of households in our State, even before the current pandemic and subsequent economic tsunami, faced crippling financial burdens from their energy bills.

And perhaps more disconcerting is the fact reported by the Pennsylvania Public Utility Commission that found that amongst the least fortunate, “Pennsylvania’s average energy burdens for all energy sources were among
the highest in the country for households below 150% of the poverty level.”

Enacting RGGI and embracing antagonistic views towards affordable and reliable energy sources is not a constructive way to address energy poverty. Instead of a new tax on prosperity and economic growth, decisionmakers should work to make energy more affordable by removing subsidies and mandates that decrease competition and increase prices for consumers.

So the futility of RGGI and its unintended consequences:

RGGI’s top-down approach ignores the extraordinary progress that our Commonwealth and our country are having in reducing emissions. This is a story of technological innovation driven by the “ultimate resource” of human ingenuity that has been far superior in achieving emissions reductions than the work of any central planner.

Consider that U.S. per capita carbon dioxide emissions are at their lowest level since 1955, dropping 23 percent from their peak in 1981.

In our Commonwealth’s power sector where RGGI’s purported policy impacts would occur, the declines are also significant. The latest Greenhouse Gas Inventory published by the Department of Environmental Protection registers a
30-percent decline in carbon emissions associated with electricity production between 2000 and 2016.

And additionally, when it comes to harmful pollutants, Pennsylvania ranks third in the country in terms of total sulfur dioxide reductions from the power sector from 1990 to 2019, only behind Ohio and Indiana, and number two in reduction of annual power sector nitrogen oxides emissions over the same period.

Supporters of RGGI argue that the program has produced substantial decreases in power plant emissions since its inception. Nevertheless, a peer-reviewed study from the Cato Institute looked at the period from ’07 to 2015 and challenges this assertion by showing that RGGI States simply tracked with reductions seen across the country in reaction to natural gas prices and a slew of new regulations promulgated by the EPA during the past Administration.

The fact is that carbon dioxide emissions began falling in RGGI States before the initiative ever went into effect. An analysis by the New York State Energy Research and Development Authority concluded that “fuel-switching from petroleum and coal to natural gas (due to relatively low natural gas prices)” was a primary driver of declining CO2 emissions in RGGI States from 2005 to 2009.

But while the program did little to contribute to
the stated goal of emission reductions, the impact of the higher electricity prices in the RGGI States has contributed to a 12-percent drop in goods production and a 34-percent drop in the production of energy-intensive goods between 2007 and 2015.

Meanwhile, non-RGGI comparison States increased goods production by 20 percent and only lost 5 percent of energy-intensive manufacturing during that same period.

The fact, as mentioned above, is also appreciated in RGGI States’ 18 percent drop in industrial electricity demand, while non-RGGI comparison States fell only 4 percent.

So it is a reasonable expectation that in the medium term, RGGI implementation will make PA a less competitive place to invest in manufacturing, a sector that employs 9.47 percent of our State’s workforce and is responsible for 11.65 percent of the total economic output in our Commonwealth.

Furthermore, RGGI’s policy goal of reducing emissions would not be accomplished because these losses for Pennsylvania will simply lead to the export of emissions and jobs to other jurisdictions, both foreign and domestic, as prior speakers have alluded to, some with higher carbon intensity per unit of production, thereby nullifying any potential contributions achieved here in PA.
This phenomenon is known as "leakage." It is critical to understand the futility of these sorts of cap-and-trade regimes, especially considering their stated policy goals of reducing carbon emissions.

And so last, the faulty premises from the DEP:

On July 8\textsuperscript{th}, the DEP put out a press release publicizing the alleged benefits our Commonwealth will accrue from its participation in RGGI. However, because DEP has yet to disclose all of the data, inputs, assumptions, and modeling underpinning these claims, it is not possible at this time to evaluate the key methodologies and assumptions that went into their models.

Despite those limitations, there are a few conclusions to draw from that preliminary press release:

• Virtually none of the claimed benefits for RGGI membership are related to reducing CO2 emissions, the stated goal of the program.
• Instead, virtually all of the claimed benefits for this carbon dioxide-focused program are a result of ancillary benefits accrued from incidental reductions in emissions of sulfur dioxide and oxides or nitrogen.
• Basing critical public policy decisions on these ancillary benefits without serious
consideration of the costs to low-income Pennsylvanians is highly problematic.

• In a seminal 2017 paper published in the Journal of Benefit-Cost Analysis and authored by 19 of the most prominent experts on Regulatory Analysis in America, authors caution that regulatory analysis that presents substantial ancillary benefits as a driver for policy decisions may need closer inspection, “particularly if the co-benefits are much larger than the direct benefits.” The authors further explained that “one would expect that regulation targeted directly at a particular outcome can achieve it more cost-effectively than one that achieves it circuitously as a side effect...” or co-benefit, “of an unrelated regulation, and a sound analysis must make a thorough inventory of both the harmful and the beneficial consequences of each alternative.”

• DEP incorrectly states that their approach to valuing these ancillary benefits is based on an EPA methodology. However, in recent regulatory actions related to the Mercury and Air Toxics Standards, Cost-Benefit Analysis
for Clean Air Regulations, and National
Ambient Air Quality Standards for Particulate
Matter, the agency and its independent science
advisors have expressly rejected that
methodology. In addition, it reports to
Congress over the past two decades, the White
House Office of Information and Regulatory
Affairs has identified five key uncertainties
and assumptions in this approach that
undermine its use for policy decisions.

So in our view, it appears that DEP has really
failed to properly weigh the alternatives to achieve the
intended benefits of the program, mainly if those benefits
could be potentially achieved in a more cost-effective way
that does not penalize families, workers, and businesses in
our State.

Joining RGGI is just not the right policy choice
for our Commonwealth.

To date, one of the most thorough reviews of RGGI
found that there “were no added reductions in CO2
emissions, or associated health benefits, from the RGGI
program. RGGI emission reductions are consistent with
national trend changes caused by new EPA power plant
regulations and lower natural gas prices.”
Similarly, the nonpartisan Congressional Research Service found that from a practical standpoint, the RGGI program’s contribution to directly reducing the GHG emissions is arguably negligible.

Simply put, making it harder for Pennsylvanians to make ends meet in a time of economic dislocation by enacting a program that has not been successful in achieving its purported policy goals is not responsible public policy.

In reality, RGGI is a revenue-raising mechanism with the sole purpose of allocating the proceeds in particularly regressive ways to politically favored industries and constituencies.

Enacting new barriers to economic opportunity in the form of higher energy prices is never advisable, and doing it while ignoring the representatives of the people in the General Assembly in a time of significant economic turmoil is irresponsible.

I thank you so much for the opportunity to address this issue, and we look forward to working together on cost-effective measures to achieve their stated policy goals without hurting the least fortunate in our society.

So thank you so much.

MAJORITY CHAIRMAN METCALFE: Thank you.
Our first member with a question is Representative Schemel.

REPRESENTATIVE SCHEMEL: Thank you, Mr. Chair, and thank you, Ms. Klingensmith, for your testimony.

I’m going to revisit comments and a question I asked earlier in regard to electric automobiles. So the amount of or the degree of emissions per unit of energy expended is significantly higher with an internal combustion automobile, even a modern internal combustion automobile, than per unit of energy produced by say a coal-fired power plant.

I think that in this discussion, we often fail to look at emerging technology that will displace a lot of the emissions that we already have, so we focus our attention on power production in large power plants as opposed to the thousands or hundreds of thousands of automobiles that we can anticipate will be displaced by new technology with electric battery-powered automobiles that will need to be powered or regenerated over through the electric power grid.

So when examining this, do you believe, you know, if we join RGGI, what do we know? We know that it will reduce available electricity and increase the cost of electricity. Increased cost of electricity will make electric automobiles less attractive to a consumer, just
the way that increased gasoline makes current automobiles with internal combustion engines less attractive.

So do you believe that by keeping electric power plentiful and relatively low cost will help to bring about the emerging technology of electric automobiles, which will displace a lot of the emissions that are produced currently, thereby bringing about the benefits to the environment that are sought by those who seek RGGI?

MS. KLINGENSMITH: Yeah. I think it’s an incredibly valid point. And, you know, we have said for years that we are not in favor of one form of energy over another. We just think that the open market and consumer demands should be dictating, you know, who wins and who loses in this industry, not State and the Federal Government.

So, yeah, technological innovation is going to be, you know, I think brought on by researchers and human innovation, and those are the things that are going to get us there. So certainly, yes, I think that’s, you know, a valid conclusion without knowing more about that article. But yeah.

REPRESENTATIVE SCHEMEL: Thank you.

So perhaps we’re barking up the wrong tree by looking at power plants or power generation as the villain. They’re actually the savior, and I think that they
potentially are the savior that brings about the green revolution that others seek. But that would require inexpensive and plentiful energy, which can only be provided by the conventional sources we have today.

Thank you.

MAJORITY CHAIRMAN METCALFE: Thank you, Representative Schemel.

Representative Isaacson.

REPRESENTATIVE ISAACSON: Thank you, and thank you for your testimony today.

It was certainly interesting listening to the testimony coming in, as considering especially we all already put up a vote on this and we all know what sides we all stand on. So it’s interesting listening to everybody’s opinion on where they are.

And not to get into what has been debated so hotly but to listen to what the testimony has brought back, the previous testifiers both went back to carbon capture sequestration as a venue to achieve some of our goals. And certainly that is something that I was wondering, is that something your organization would be supportive of in helping bring our majority to bringing this about in Pennsylvania, because certainly if it’s going to help reduce the carbon emissions in Pennsylvania and it’s something most of the testifiers here today seem to be
supportive of, it’s something maybe we could all get around
instead of just sitting here going around having arguments
when we could possibly achieve some sort of policy goal
here today.

MS. KLINGENSMITH: No, absolutely, and I would
love to continue those conversations. I think, you know,
we’re maybe not there yet on that being, you know, a
viable innovation. But certainly I think it should be an
all-of-the-above approach, and so we would absolutely look
forward to talking about it and, you know, just talking
through what kind of policy proposals there are around it.

And, you know, I would just say that, you know,
for us, our interest is, you know, kind of the most under
represented, least organized, you know, constituency of
them all, which is probably just the taxpayers and
ratepayers of Pennsylvania, and so that’s who we’re here
representing.

And so I think a lot of times those voices can
get lost in policy conversations. We have offices in Erie,
and we have a staffer in Philadelphia and right here in
Wormleysburg and Potter County and Pittsburgh. And, you
know, folks are just saying they are at their wit’s end
right now, and so to think about adding an additional
financial burden to their shoulders is I think
incomprehensible to a lot of them.
So I would look forward to talking about that, though.

REPRESENTATIVE ISAACSON: Yeah. I wasn’t looking to add another burden; I was just commenting on listening to the testimony and a comment to my colleagues. And, you know, everybody is looking towards finding a way, and so I didn’t know whether that’s something that, since the other testifiers seem supportive of the concept of capturing carbon sequestration, that perhaps you would also.

Thank you very much.

MS. KLINGENSMITH: Yeah. Absolutely.

MAJORITY CHAIRMAN METCALFE: Thank you.

Representative Metzgar.

REPRESENTATIVE METZGAR: You know you’re the third person that has testified today that essentially says this makes no sense, you know, especially whenever we consider that countries around the globe are actually doing the inverse of what the Regional Greenhouse Gas Initiative would purport to do, and we are breathing all that same air. So, I mean, we are having countries all around us experiencing the success of, you know, having cheap energy, and we’re actually inverting that.

And I’m curious as to whether, you know, when things don’t make sense, I’m wondering with all the smart people that are behind this initiative, you don’t suppose
that they’re not foolish at all but instead that they are actually intentionally trying to handicap America?

MS. KLINGENSMITH: Well, I don’t want to speak on their motivation necessarily. But, you know, I’ll say when the purported policy objective can be called into question by a pretty diverse constituency of individuals representing everyone from, like we do, the grassroots to labor, you know, I think we all -- this deserves a second look.

And I think everyone here probably would consider, if there are ways to reduce emissions in a cost-effective way, they are open to it, and in a way that actually reduces emissions and is proven, that’s something we should all be exploring and we should all be talking about and debating. We simply don’t believe this is the mechanism to get us there.

You know, I think the goal from everyone should be to remove barriers to innovation and empower folks in both communities and businesses, because both of those entities need to have a say in this conversation, to be better stewards of the environment.

Just this morning driving here from Pittsburgh, I heard on the radio that Tim Cook said Apple is going to be carbon neutral in the next decade. Well, we can all make the choice to then, you know, support Apple if we choose --
right? -- because that’s a consumer and market reaction to
I think a lot of people’s concern about the environment.

So I think you see market forces have worked
around the conversation and around the development of
natural gas, and so we should continue to enable and foster
a regulatory environment that would allow those innovations
to, you know, be bolstered instead of hindered.

REPRESENTATIVE METZGAR: So considering---

MS. KLINGENSMITH: It’s meaningless if we are the
only nation that is concerned with reducing emissions.
That’s what I talked about when we talked about that
phenomenon of, hey, if that leaves here and just goes to
Mexico or if that leaves here and just goes to, and that
input is coming from China or India, you know, I think we
are all residents of the same planet Earth, and so we
should all have, you know.

REPRESENTATIVE METZGAR: Sure.

To your leadership statement there, I mean, I
think, you know, we should be leaders in this, and
Pennsylvania historically has been a leader in energy
production. We’re the second largest producer of energy in
the country.

But whenever you consider some of the other, you
said about market forces at play. You know, during the
Obama era, we saw forced retirements of a number of
coal-fired generation facilities during that period of
time. Now we see some retirements and more impending
retirements of some of our nuclear facilities. We have
seen more natural gas come on board, largely driven by what
you said before, the low cost, the $3 per MCF cost
essentially at this point for natural gas.

But my question to you is, looking in the future
with RGGI as the backdrop, if we continue to have nuclear
retirements, RGGI forces more coal-fired retirements, and
let’s presume that natural gas goes back to 2008 levels of
$12 per thousand cubic foot, what does that do to the
Commonwealth, the PJM grid, and I think you mentioned some
of our most vulnerable individuals that are the
impoverished? So can you explain to me what your vision of
that, you know, maybe very real and realistic scenario
under RGGI would be.

MS. KLINGENSMITH: Yeah.

Look, an article this morning from PennLive:
“More financial assistance may be on the way for
Pennsylvanians struggling to pay utility bills.” I also
came across just late last month an LA Times article
entitled “California’s clean energy programs are mainly
benefiting the rich...,” and it looked at LA County via a
UCLA study. And I just want to read just two paragraphs
from that article:
“Consider the city of Maywood, which is 98% Latino and has a median household income just under $40,000. In 2016, Maywood residents used less than one-tenth as much electricity, on average, as residents of Beverly Hills’ famous 90210 ZIP code.

“Some low-income families often can’t afford to use enough energy to stay warm or cool. As a result, they ‘continue to live in less comfortable housing and pay a larger proportion of their income for that discomfort,’…”

This is certainly going to be the trend here. We are not insulated from that same, that same, you know, that same fate.

We have been leading. I think we should all be proud that the U.S. has been leading in reducing CO2 emissions and becoming more efficient. I think we’re at 15 percent of the world’s emissions, and we’re trending to 10 percent within the next decade. So I simply don’t think that anyone can really lecture us on our commitment to environmental quality.

MAJORITY CHAIRMAN METCALFE: Representative Krueger.
REP. KRUEGER: Thank you, Mr. Chairman.

Thank you so much for testifying here today.

I just want to follow up on something that you said earlier in your testimony, or at the end of your testimony. You said that your constituency is the most underrepresented of them all, taxpayers, and you do the grassroots and labor and then you trailed off. I just want to be clear, you do represent Americans for Prosperity, do you not?

MS. KLINGENSMITH: Yes.

REP. KRUEGER: So Americans---


REP. KRUEGER: And Americans for Prosperity at the national level was founded by David and Charles Koch, was it not?

MS. KLINGENSMITH: They are founding members, yes.

REP. KRUEGER: And your organization has fought back on cap and trade. You fought collective bargaining rights. In fact, I was at a hearing for another committee at the beginning of this session where you were fighting back against organizing rights for public-sector unions. So I find it questionable to have you say that you represent the taxpayers, the grassroots and labor
today, given the fact that you’re from Americans for Prosperity.

MAJORITY CHAIRMAN METCALFE: I think she actually was referring to that we had one of our testifiers that was here representing labor and she’s here representing the taxpayers.

REPRESENTATIVE KRUEGER: But that’s not actually what she said, Mr. Chairman.

MAJORITY CHAIRMAN METCALFE: Well, that’s what I heard her say. Maybe it’s not what you heard, but I think it’s what she meant. Isn’t that correct?

MS. KLINGENSMITH: I—-

MAJORITY CHAIRMAN METCALFE: You are here representing taxpayers. The labor unions you were referencing was our labor union representatives.

MS. KLINGENSMITH: Yes; yes. I was just representing prior speakers today.

REPRESENTATIVE KRUEGER: So the taxpayers in my district hold very different positions than the Koch organization. I just want to correct the record for who you are speaking for today.

Thank you, Mr. Chairman.

MAJORITY CHAIRMAN METCALFE: I really appreciate that.

Representative Dush.
REPRESENTATIVE DUSH: Thank you, Mr. Chairman.

Two testifiers ago, the previous questioner asked about what are the businesses doing for their people, and I can tell you Cliff Forrest and others, when back in 2014 to 2016 when the immediate impacts of what the previous President was doing, those guys were taking care of their people, and they were taking care of their communities as well.

But she then went on and she brought up about the DEP’s numbers on the reduction of CO2 emissions under RGGI of 188 million tons, but what she failed to bring up was that DEP also acknowledged that under RGGI, CO2 emissions in other States in the Eastern Interconnection will increase by 140 million tons.

So basically what DEP came around to, and it’s always underreported. It’s never talked about when they make their public comments. But you were talking about leakage.

MS. KLINGENSMITH: Yes. It’s---

REPRESENTATIVE DUSH: And this is directly addressing that. I would appreciate, does RGGI actually guarantee less energy production within Pennsylvania and still an increase in carbon output outside of Pennsylvania’s borders?

MS. KLINGENSMITH: Well, happy to send some
additional sources and citations on that front. But, you know, I talked about leakage. I have talked about it in my post-testimony comments, and I simply think that it is a fallacy for us to believe that emissions not coming from the Commonwealth of Pennsylvania but coming from even another Commonwealth, arguably, in this country is doing any real impact and having any objected, stated objective of this program. I think, you know, we’re all fooling ourselves.

And so I think unless it’s everyone being equal and conscientious contributors to the cause, what we know is that we are going to see real harm, an immediate harm to families that are struggling most right now to provide for themselves during a tough time. I wish I had a more recent Pennsylvania article, but I thought the LA Times article was incredible about LA County.

You know, you see a disproportionate impact with some of these energy policies, and we know that folks right now are struggling. And any sort of immediate negative effect on electricity prices, this could not be a worse time.

REPRESENTATIVE DUSH: Thank you.

MAJORITY CHAIRMAN METCALFE: We have one final question, as long as he can ask it without hollering at you. Representative Vitali.
MINORITY CHAIRMAN VITALI: Thank you, Mr. Chairman.

At the outset, I just want to correct this. RGGI is not a tax, it’s a system of purchasing and trading allocations to pollute, and that’s very different conceptually from a tax. I just want you to understand that.

I see your point that as market forces have converted our energy economy from coal to gas, that has resulted not only in lesser CO2 emissions but also other pollutants, and that’s fine as far as it goes. But we need to get to carbon neutrality, I believe, and the overwhelming majority of the world’s atmospheric scientists believe by 2050, to avoid the worst effects of climate change.

So my question for you is, one, does your group believe that we need as a planet to get to carbon neutrality by 2050 to avoid the worst effects of climate change; and two, if RGGI is not part of that, what is your roadmap to getting us to carbon neutrality by 2050?

MS. KLINGENSMITH: So I would just say it is meaningless for the U.S. to get to carbon neutrality if we are the lone country on the face of planet Earth that does so.

MINORITY CHAIRMAN VITALI: So you’re suggesting
we do nothing?

      MS. KLINGENSMITH: I’m not suggesting we do nothing. I am a consumer---

MINORITY CHAIRMAN VITALI: What are you suggesting we do?

      MS. KLINGENSMITH: ---and consumers every day make choices like, as I just mentioned, Tim Cook talking about---

MINORITY CHAIRMAN VITALI: What’s your policy---

MAJORITY CHAIRMAN METCALFE: Representative Vitali, you’ve done this repeatedly. Please let this testifier answer the question.

      MINORITY CHAIRMAN VITALI: That’s what I’m listening. I’m listening for the answer.

      MAJORITY CHAIRMAN METCALFE: And when your -- Representative Vitali, you’re done talking now. Shut your mic off.

      MINORITY CHAIRMAN VITALI: Yeah. You know what the question is: How do we get to carbon neutrality?

      MAJORITY CHAIRMAN METCALFE: Representative Vitali, you have already asked your question.

      MINORITY CHAIRMAN VITALI: Okay. I’ll listen to the answer.

      MAJORITY CHAIRMAN METCALFE: Let the testifier answer the question.
MINORITY CHAIRMAN VITALI: I’ll listen. I’ll just listen to the answer then.

MAJORITY CHAIRMAN METCALFE: That would be good.

Thank you.

MINORITY CHAIRMAN VITALI: But the question is clear: How do we get to carbon neutrality? Please answer that.

MAJORITY CHAIRMAN METCALFE: Thank you. I think she understood. It’s a pretty basic question. I think her answer is very similar to what I was thinking. Thank you.

MS. KLINGENSMITH: Yeah.

No, I would just say I think consumers are making different choices every single day about their buying habits. They’re doing that without any top-down approach whatsoever. And so I think that, also coupled with, you know, things like the fracking revolution, things like technological innovation.

We talked about carbon capture. I don’t think we’re quite there yet for that to be the lone solution, but I think there’s, you know, free people are capable of extraordinary things. We see innovators, we see researchers every day on the front lines trying to think of ways to be better stewards and actually implement better ways and processes, standard operating procedures, to be better stewards of the environment. I have yet to meet
someone that is just totally callous about some of those
effects.

So I would say that I think that if we free
people up, people are going to, I think, impress us, as
they always do.

MAJORITY CHAIRMAN METCALFE: I think that was a
great answer.

MINORITY CHAIRMAN VITALI: It sounds like you’re
saying we should do nothing and everything will be okay.

MAJORITY CHAIRMAN METCALFE: Thank you,
Representative Vitali. Thank you for your question, and
you’re not disappointing in the way you delivered it, once
again.

We thank you, Ashley, for your testimony today.

MS. KLINGENSMITH: Yeah.

MAJORITY CHAIRMAN METCALFE: You did an excellent
job, an excellent way to answer that question. Actually,
freedom and the free markets that we have compared to the
rest of the world provide the best answers both in
innovation and technology and answering the world’s
problems, which is why we are one of the leading producers
of energy and able to export it to not only other States
but to other countries, as we are currently doing.

And it’s just mind-boggling to sit here today and
to recognize the other side on this issue while our
constituencies, our citizens across the country, are battling this virus that was unleashed on us by China, and now China building along with those other four countries and China building a majority of 900 coal-fired plants with no concern for the carbon that they are going to emit into the environment, but we’re supposed to try and make up, even though we’re not able to, for China’s attack on the environment and their attack on our citizens through this Chinese virus.

It’s just mind-boggling that Americans aren’t more unified in recognizing the threat from China and that this once again is another win for China if we move away from being one of the largest energy producers in this country, which we need to maintain. And hopefully we’ll be able to defeat Wolf in this endeavor a little bit faster than we have with his trying to shut down our economy in Pennsylvania, like he has been successful at the last 4 months in so many ways.

Thank you.

MS. KLINGENSMITH: Chairman, two figures, if I could just note.

The PUC Chair just said there are at risk of default or termination, as bills grow, 800,000 households in Pennsylvania when this moratorium ends on all of their, you know, companies under their purview -- 55,000
businesses. To think about adding an additional burden I think would be nothing short of irresponsible.

MAJORITY CHAIRMAN METCALFE: I agree. I agree. And I think it’s being done with purpose, as Representative Metzgar proffered. Thank you.

Our next and last testifier for today is Mr. Anthony Holtzman, Esquire, partner at K&L Gates LLP. Thank you for sticking with us. We’re a little longer than scheduled today, but there wasn’t a lot going on at the Capitol today in the way of a need for this room, so I figured we were safe with playing through the earlier questions, and I appreciate you being able to stay with us.

MR. HOLTZMAN: My pleasure.

MAJORITY CHAIRMAN METCALFE: Thanks for joining us, sir.

MR. HOLTZMAN: My pleasure.

MAJORITY CHAIRMAN METCALFE: You can begin when you’re ready.

MR. HOLTZMAN: Good afternoon, Chairman Metcalf and Chairman Vitali and the other Members of this Committee.

As you said, my name is Anthony Holtzman. I am very pleased to join you today to discuss certain constitutional and statutory issues that pertain to RGGI, and in particular I’m here today to explain why, in my
estimation, Pennsylvania’s constitutional and statutory law does not provide the Executive Department with the authority to join or implement RGGI.

And at the outset here, I want to be very clear that I’m not representing or being paid by any client today and I’m not appearing on behalf of my law firm. I’m here in my individual capacity. The opinions that I will express are my own, but I formed them based on my experience with State and Federal constitutional and environmental law issues.

I’ll also say at the outset that my 10-year-old son this morning asked me what I was going to do today, and I said I’m going to go talk to some Legislators about statutory and constitutional issues. He said, you know, Dad, your life is normally pretty boring, but I think this one takes the cake. So I will take that to heart and try to make this as engaging as I can.

At the outset, the threshold point here, in my estimation, is that the Pennsylvania Constitution does not provide the Executive Department in Pennsylvania with the authority to join RGGI.

In order to formally join RGGI, the Commonwealth would need to execute the RGGI Memorandum of Understanding -- it’s also known as the MOU -- which operates like a binding agreement between the signatory States.
And Article IV of the Pennsylvania Constitution is an important section of the Constitution in this regard: It establishes the powers of the Executive Department, and notably, it does not contain any provision that supplies the Governor or any other Executive branch official or entity with the authority to sign on to an interstate agreement or compact like RGGI. So it enumerates a variety of powers that are bestowed upon the Governor and the Executive, but one of them is not the power to enter into an interstate compact.

And while it is true, as some have observed, that Article I, Section 27, of our Constitution, also known as the Environmental Rights Amendment, imposes duties on the Commonwealth to “conserve and maintain” Pennsylvania’s “public natural resources,” that provision does not operate to expand the powers of the Governor or the Executive branch agencies that operate under his purview. And the Pennsylvania Commonwealth Court in fact has expressly acknowledged this point in some of its case law, and also the Department of Environmental Protection itself has recognized that it’s a creature of statute and Article I, Section 27, does not operate to expand upon its statutory powers.

So because the Pennsylvania Constitution does not provide the Governor or any other Executive Department
official or entity with the power to enter into an
interstate compact or agreement, the General Assembly alone
possesses that power.

And the General Assembly in this regard, and our
Supreme Court has stated this in case law over and over
again, it has plenary power, and therefore, unless the
Constitution says otherwise, it has the authority over and
can enact legislation regarding any subject.

And as a corollary to that point and very apropos
for today’s discussion, our Supreme Court has actually
recognized the fact that the Constitution vests this body,
the General Assembly, with the compacting power and that if
a statute wants to delegate that power to the Executive
branch, the delegation must, quote, “evince the
Legislature’s ‘basic policy choice’ to participate in [the]
interstate agreements,” closed quote.

So the result of all of this is that in order for
the Executive Department to sign on to the RGGI MOU, it
needs to be statutorily authorized to do that. And the
reality is, there is no Pennsylvania statute right now that
provides the Executive Department with the authority to
sign on to RGGI.

The two potentially applicable statutes, the ones
that people discuss all the time, are the Air Pollution
Control Act, or APCA, and the Uniform Interstate Air
Pollution Agreements Act, or the UIAPAA. That one doesn’t have quite as fluid of an acronym associated with it.

So first, Section 4(24) of APCA provides that the Pennsylvania Department of Environmental Protection may, quote, unquote, “formulate” interstate air pollution control agreements, quote, “for the submission thereof to the General Assembly,” closed quote. So by the plain terms of that provision, the Department of Environmental Protection may certainly formulate interstate air pollution control agreements. It can negotiate them, it can craft them, but it may not actually execute them and it may not actually bind the Commonwealth to them. Instead, it must submit them to the General Assembly for consideration and potential ratification.

Section 3 of the other statute, the UIAPAA, for its part authorizes the Department to enter into what it calls multistate “administrative agreements” that provide for things like “cooperation” and “coordination” of nonbinding efforts to control cross-border air pollution. And those types of agreements, according to the statute, can provide for things like “coordinated administration” of the States different air control programs, “consultation concerning technical” issues, and the “development of recommendations” concerning air quality standards.
The RGGI MOU by contrast is not an “administrative agreement” of the type that that statute contemplates. Under the RGGI MOU, as I suspect you’re aware, each signatory State makes a binding commitment to propose and implement a regional carbon dioxide budget trading program, which is based on the State’s mandatory participation in a regional, revenue-raising allowance auction process. So this arrangement stands in stark contrast to the paradigmatic UIAPAA “administrative agreement.” Those agreements typically, for example, allow for the sharing of ambient air monitoring data, for example, between States or the convening of periodic technical conferences among agency staff members.

So again, with those points as a backdrop, there is no Pennsylvania statute right now that provides the Executive Department with the authority to sign on to the RGGI MOU. And even if the Executive branch did have the authority by statute or Constitution to sign on to the MOU, it does not have the authority to adopt regulations to implement RGGI.

First in this regard, our Supreme Court as a legal test has long held that under our Constitution, the power to impose a tax is vested solely in the General Assembly, and its test is that under the case law, something qualifies as a “tax” if it is a
“revenue-producing measure.” And a regulatory “fee,” by contrast, is merely “intended to cover the cost of administering a regulatory scheme.” And therefore, as Pennsylvania’s courts have explained repetitively, whether an income-producing mechanism imposes a “tax” on the one hand, and this is as a legal matter, or a “fee” on the other, it turns on the volume of income that the mechanism generates and the proportion of that income that goes towards covering the program’s administrative costs.

So under this standard, RGGI’s quarterly auction mechanism, which as I suspect you know is really right at the heart of this program, would qualify as a “tax” and not a “fee” as a matter of law, because the proceeds of the auctions are grossly disproportionate to the costs of administering the program.

Through 2017, which as I understand is the most recent year for which the data is available, the RGGI signatory States had directed less than 6 percent of the proceeds toward the program’s administration. The auction mechanism that lies at the heart of RGGI is designed to raise substantial sums of revenue. In fact, the numbers indicate that it has raised more than $3 billion to date. And the signatory States have used the overwhelming amount of that money to support policy initiatives, like energy efficiency and renewable energy initiatives, or transfer
the money to general funds to bolster State coffers.

Again, only 6 percent of the proceeds have gone towards administering the RGGI program itself. So the program imposes a tax, and a tax is something that only the General Assembly can impose.

This conclusion -- and this is important, by the way -- is consistent with the Environmental Quality Board’s limited authority under APCA to establish emission fees. Under Section 6.3 of APCA as it stands right now, the EQB can only establish, quote, “fees sufficient to cover the indirect and direct costs of administering” APCA and the Clean Air Act. The EQB, therefore, under current statutory law, cannot adopt regulations that would require regulated entities to pay emission, quote, unquote, “fees,” by purchasing emission allowances, that would generate revenues that were vastly in excess of the “indirect and direct costs of administering” APCA and the Clean Air Act. So that’s what the statute says right now, and yet, the EQB would need to take precisely that approach, precisely that approach in order to implement RGGI.

And even apart from RGGI’s tax law implications, no Pennsylvania Executive agency has the statutory authority to adopt regulations to implement the RGGI program. APCA is the only potential source of that authority, and it does not authorize the adoption of those
kinds of regulations.

And to this end, this framework is really set by some fundamental, basic principles of law. Our Supreme Court has explained over and over again that it is a well-settled principle that the power and authority that administrative agencies can exercise must be conferred by the General Assembly. And an important corollary to that point is that when it comes to a legislative delegation of rulemaking power to an agency, the delegation “must be clear and unmistakable,” the Supreme Court tells us, because “a doubtful power does not exist.”

In essence, basic policy choices must be made by the General Assembly, and the General Assembly can leave it up to Executive agencies to fill in the details. But it has to be clear and unmistakable. The General Assembly cannot delegate power to an agency in an ambiguous fashion. If that’s the case, courts should construe that delegation as not providing the agency with the power at issue.

So if you look at those principles, regardless of whether APCA authorizes the regulation of carbon dioxide emissions generally, and set that to the side for a moment, and it’s my opinion that it does not, the statute does not authorize the adoption of regulations to implement RGGI.

If you go through the statute, it is devoid of any clear authorization for any agency to issue regulations
that would adopt a detailed “cap-and-trade” system, including the carbon dioxide allowances regime, that lies at the very heart of the program that we have been discussing today. The result is that if a Pennsylvania agency were to invoke APCA and issue regulations of that sort, those regulations would be ultra vires and void.

Along these lines, there is a provision in APCA, Section 5(a)(1), which provides the EQB with some authority, and it says that the EQB can adopt regulations that, among other things, “establish maximum allowable emission rates of air contaminants” and “prohibit or regulate any process or source or class of processes or sources.”

Now, it’s true that with enough effort it may be conceivably possible to read those phrases so broadly that they would allow for regulations that implement the RGGI program, courts are definitively not supposed to take that approach. Again, the applicable rule of statutory interpretation is that in every single case, a delegation of rulemaking power by this body to an administrative agency “must be clear and unmistakable as a doubtful power does not exist.”

And I would submit that this should be a bipartisan question. This is an important institutional issue for the General Assembly: When is it that an
administrative agency can do something? It’s only when this body has made the basic policy choice in a clear and unequivocal fashion and delegated in a clear and unequivocal fashion authority to the agency to carry out that basic policy choice. It doesn’t matter what stripe the Governor is. This body should care about that principle.

Separately, there is also a reasonable argument that APCA does not even authorize the regulation of carbon emissions in general. Ambient carbon dioxide in this regard arguably does not constitute “air pollution” within the meaning of the statute, because unlike other conventional pollutants, things like, for example, lead, mercury, particulates, nitrogen oxides, and sulfur oxides, the inhalation of carbon dioxide or the direct exposure to it at typical atmospheric conditions is not, quote, unquote, “inimical to the public health, safety or welfare” or, quote, unquote, “injurious to human, plant or animal life or to property,” and it does not, quote, unquote, “unreasonably interfere with the comfortable enjoyment of life or property.” So by its plain wording, and unlike States like New York that expressly authorize the regulation of “carbon dioxide,” APCA indicates that it does not allow for the regulation of substances whose sole environmental consequence is that they contribute to global
climate change.

But importantly, even if, even if for purposes of the statute carbon dioxide in the atmosphere constitutes “air pollution,” an attempt by the EQB to employ RGGI’s carbon-trading program to regulate emissions of that gas would not meaningfully, quote, unquote, “prevent, control, reduce, and abate climate change,” as would be required for the agency to adopt regulations under APCA. And as we have heard earlier today, on a percentage basis, the contribution by Pennsylvania’s fossil-fuel-fired power plants to total worldwide greenhouse gas emissions is relatively miniscule.

So the result is that even if the implementation of RGGI were to result in the complete elimination of carbon emissions from all regulated power plants in Pennsylvania, which it certainly is not designed to do, it would not materially impact the concentration of ambient carbon dioxide in the outdoor atmosphere. That’s yet another reason why APCA, as it exists now, does not authorize regulations to implement RGGI.

So for all these reasons, Honorable Members of this Committee, it is my view that Pennsylvania’s Executive Department does not currently have the authority to join or implement RGGI.

I would be happy to try to answer your questions
about these issues. Thank you.

MAJORITY CHAIRMAN METCALFE: Thank you very much, sir.

Our first question is from Representative Metzgar.

REPRESENTATIVE METZGAR: Thank you, Mr. Chair.

Not that I am opposed to insurance policies, but I guess, you know, when you have heard other testifiers today discuss House Bill 2025, and so based on your legal analysis, is 2025 an insurance policy, and unnecessary?

MR. HOLTZMAN: I think that 2025, my analysis of it would crystallize sort of the existing regime in a sense. Adopting the statute would help to avoid, for example, protracted and potentially expensive litigation that could arise out of the Executive Department’s current plan to sign on to and implement RGGI on its own, which could tie up the question in the court system potentially for many years. It’s my view that ultimately, the outcome would be, as I suggested, that there is no authority right now for the Executive Department to sign on to or implement the program.

So one of the crystallization benefits, if you will, of a statute or a bill like 2025 if it were to be enacted into law is that it would help crystallize the state of the law and avoid that protracted and expensive
potential litigation that I think would be fairly likely to materialize absent the statute.

I'm not sure if that's directly what you were driving at, but that's my thought on that topic.

REPRESENTATIVE METZGAR: No, that’s what I was looking for.

A follow-up I have and to play a little bit of devil’s advocate is, could you tease out then in the Air Pollution Control Act, the language that is in Section 24 says that “for the submission thereof to the General Assembly.” And I guess there is some disagreement on whether that means simply that it's submitted or that we actually have a say on that. Do you have any background that would clarify that or any thoughts that would help us understand, you know, more fully what that means?

MR. HOLTZMAN: Yeah. I think interpreting it in that fashion would arguably be an unreasonable and potentially absurd way to interpret it, because there would be no meaningful purpose for doing that exercise. It wouldn’t impact the effectiveness of the Department of Environmental Protection’s decision to sign on to the agreement in any way. It would simply be an exercise in futility. Essentially, the General Assembly would have no role whatsoever, and that language essentially would be rendered meaningless in the statute.
And, of course, in interpreting statutes, every word of the statute must be given effect and have some kind of independent meaning and function. It’s not just there for window dressing, right?

So, you know, and “formulate” is another important point. The statute doesn’t say that the Environmental Protection Agency -- I’m sorry, the Department of Environmental Protection can enter into, can execute, can bind the Commonwealth to. It uses the interesting word “formulate,” and this is in contrast, by the way, to some other statutes which, for example, do allow other agencies to enter into interstate agreements and compacts.

There are some statutes on the books that are very clear; for example, that PennDOT can enter into certain multistate agreements regarding vehicle issues, the sharing, for example, of records, vehicle records, with other States and so forth. And they don’t use this kind of language, “formulate” for submission to the General Assembly. Instead, the statute is pretty clear that PennDOT is given the authority to execute and enter into the agreement and bind the Commonwealth to the agreement.

So that’s an important word. “Formulate” is an important word, and it’s also important to make sure that every word in the statute has independent functionality and
meaning, that it’s not rendered meaningless or unreasonable.

I hope that’s helpful.

MAJORITY CHAIRMAN METCALFE: Thank you, Representative Metzgar.

Representative Zimmerman.

REPRESENTATIVE ZIMMERMAN: Thank you, Mr. Chairman.

And thanks, Mr. Holtzman, for your testimony. I appreciate that.

So two questions. The first one is, do you know of any other State that joined this compact, did all of those States actually have legislative approval that you’re aware of, or---

MR. HOLTZMAN: To be candid, I haven’t studied that issue super carefully. My understanding is that the vast majority of them have had stand-alone legislative authorization expressly allowing for the State to enter into this particular multistate agreement. There may be one or two States whose statutes, and of course this all depends on a statute-specific analysis, right?

REPRESENTATIVE ZIMMERMAN: Sure.

MR. HOLTZMAN: So New York, for example, may have a statutory regime in place that did clearly and unequivocally delegate to its environmental regulators the
authority to enter into an agreement like this, and that
may have been what happened there. So there may have been
one or two States like that. But my understanding is that
most of the other States that are signatory States to RGGI
have independent, stand-alone, clear statutory
authorization to enter into the arrangement.

REPRESENTATIVE ZIMMERMAN: Okay. Thanks for
that.

Also, is there any other compact for greenhouse
gas across the country? Is there another group of States
anywhere in the country that you’re aware of or to your
knowledge?

MR. HOLTZMAN: Not in this particular fashion.
The way that RGGI is set up, no, I’m not.

REPRESENTATIVE ZIMMERMAN: Okay. All right.
Thank you.

Thank you, Mr. Chairman.

MAJORITY CHAIRMAN METCALFE: Thank you.
Representative Vitali.

MINORITY CHAIRMAN VITALI: Thank you,
Mr. Chairman.

Mr. Holtzman, just for your information, if we
were to enact 2025, the result would not be a statute
authorizing RGGI, it would be the death knell for RGGI,
because it’s just not going to happen.
With regard to your legal arguments, with regard to, you know, as one lawyer to another, I appreciate that. But when you have a hearing and you bring in a lawyer who represents the oil and gas industry and you don’t bring in a lawyer who represents DEP or is supportive of RGGI, you’re going to get a one-sided result.

I want you to know that I have spoken with DEP lawyers, who assure me that the Air Pollution Control Act gives the DEP authority to promulgate regulations relating to pollution. In the case of the EPA v. Massachusetts, or Massachusetts vs. EPA, it defines CO2 as a pollutant. The further basis is found in our environmental clause of the Constitution.

With regard to, this is not, this is not an interstate compact. The UIAPPA is a legal basis, a solid legal basis, for Pennsylvania entering into a looser agreement with other States. So the Administration has a contrary argument to the points you are making, and this ultimately will be decided in court and perhaps you’ll make these same arguments opposed to DEP counsel one day.

But my question for you, I mean, because you’re not here, you know, representing the gas industry, and your kids had a good interaction with you before you came here today. But when we get to, you know -- so my question is this: How do, if RGGI is no good, how do we get to carbon
neutrality by 2050? And you’ll probably be a 70-year-old man and your kids will be in their 40s, and, you know, what do you say to your kids if we have done nothing and we’re living in this post-climate dystopia where the world has really been despoiled? What do you say to your kids? How do we get to carbon neutrality?

REPRESENTATIVE METZGAR: Mr. Chairman, I don’t think he testified to that. He was just doing the legal analysis of the statute. I don’t understand why you’re asking that question.

MAJORITY CHAIRMAN METCALFE: And I agree with Representative Metzgar.

MINORITY CHAIRMAN VITALI: Well, you’re out of order asking me that question.

MAJORITY CHAIRMAN METCALFE: This seems to be a question that Representative Vitali wants to pose to every human being he interacts with. I know it has been a passion of his for the almost 22 years I have known him.

MINORITY CHAIRMAN VITALI: No, it’s an important question to the speakers coming here today.

MAJORITY CHAIRMAN METCALFE: He has always been out to talk about climate change from the beginning when anybody---

MINORITY CHAIRMAN VITALI: Everyone knocks our solution, but they don’t have any solutions----
MAJORITY CHAIRMAN METCALFE: Representative Vitali---

MINORITY CHAIRMAN VITALI: Don’t talk to me like I’m a dog. No one is opposing---

MAJORITY CHAIRMAN METCALFE: No, you have treated our testifiers like that.

MINORITY CHAIRMAN VITALI: No one is proposing any solutions. They’re just saying, you can’t do this, and they are backed behind moneyed interests who want that to happen, and that is just not right.

MAJORITY CHAIRMAN METCALFE: Thank you, Representative Vitali.

Representative Dush.

REPRESENTATIVE DUSCH: You cannot violate the Constitution in order to have -- and especially not by the dictates of a single individual. You know, our Constitution is a covenant between the people and the government they hire to write, administer, and adjudicate the law, and it’s set up in a way that makes that very plain.

The people created the Constitution, the people created the government, and they did it by a specific set of rules. And Article III is extremely important. You know, we set this up. Article I is the Bill of Rights. That’s the rights of the people. Government is not
involved yet.

Article II is the Legislature. That’s us. We are the people who are hired to write what would be the force of law to compel the people of Pennsylvania to either do something or not to do something. That power was never given to the Executive branch to write law.

Article III is actually the law, the legislation. The Executive and Judiciary are purposely put under the law in Articles IV and V of the Constitution, purposely put there under the doctrine of first principles and covenant relationships and contracts. The Executive and the Judiciary are to follow the law, not create the law. They are not there to create compacts or other things which have the force of law over the people of the Commonwealth.

What the Governor is doing is an ultra vires act. It is exceeding his authority. Thomas Raeburn White’s comments on the Constitution of Pennsylvania, which the Supreme Court refers to repeatedly, cites case law of that, because it has been attempted by the Executive for decades prior to his writing of that.

Sorry, Chairman. I got off on a tangent because of the previous---

MAJORITY CHAIRMAN METCALFE: A question? A question, Representative Dush?

MR. HOLTZMAN: That’s okay. I’m enjoying it. Go
ahead.

REPRESENTATIVE DUSH: Do you see in the Pennsylvania Constitution any type of authorization for the Executive branch or, in a delegated authority under Article II, or Article III, to the Executive? Is there anything that exhibits the right for the Executive to go down this road?

MR. HOLTZMAN: No, I don’t see anything like that. And it’s an interesting thing to note that when it comes to the array of powers under Pennsylvania’s Constitution, it’s interesting, because it’s different than the Federal Constitution in an important way.

The Federal Constitution bestows on Congress a series of enumerated powers. There’s a list, and that’s supposed to be the only power that Congress has. And it was always understood that the States would reserve the rest of the power from the Federal Government. Now, over time, unfortunately, some of those Federal precepts have kind of been worn away through judicial decisionmaking, but that was always the idea.

Now, importantly, under Pennsylvania’s Constitution, instead of having a list of enumerated powers for the General Assembly to exercise, the rule is that the General Assembly has plenary power. It has the power over everything that has not been expressly taken away from it
by the Constitution. So the default rule is always that if
the Constitution is otherwise silent on a topic, it’s the
General Assembly that possesses the power to regulate on
that particular topic.

So again, Article IV enumerates certain powers
that are given to the Governor and the Executive branch.
Those powers unequivocally do not include the compacting
power, and the Supreme Court has recognized that. That’s a
power that’s vested in the General Assembly, and if the
General Assembly wants to delegate it in some specific
instance to an administrative agency, it must do so clearly
and unequivocally by statute. It can’t be ambiguous.

So in this case, there is no authority that I see
for the Governor to enter into RGGI’s MOU on the first
hand, and on the second hand, to implement that compact
through implementing legislation -- or I’m sorry,
regulations.

REPRESENTATIVE DUSH: Thank you.

MR. HOLTZMAN: You’re welcome.

REPRESENTATIVE DUSH: And just one very short
comment.

The APCA clause on presentment, it’s kind of
ironic that we are in a situation where the Governor fought
the presentment clause recently and now he’s refusing to
present to us.
MR. HOLTZMAN: Agreed.

MAJORITY CHAIRMAN METCALFE: Thank you, Representative Dush.

And I appreciate you testifying today, and I’m sure that your son might have enjoyed our committee hearing more than many others---

MR. HOLTZMAN: Yeah. Me, too.

MAJORITY CHAIRMAN METCALFE: ---because we do provide a little more energy and activity sometimes.

MR. HOLTZMAN: I think that’s true. Yeah; absolutely. Well, thank you for having me.

MAJORITY CHAIRMAN METCALFE: Well, I appreciate you laying out the legal argument related to the powers of the Legislature that are ultimately given to us on behalf of the people, that we are the ones that have the power to tax. We are the ones that have the power to authorize entering into compacts. There is more than one point that this proposal by the Administration fails on.

As a member of the EQB based on the nature of my Chairmanship, along with the Minority Chair, and the same for the Senate Minority and Majority Chairs of their Environmental Committee, I’m sure we’re going to be battling this out there. It would just be, it would be, as I sat here listening to your testimony, I would hope that the individual Members, who are mostly appointees of the
Governor, would have enough integrity to weigh the seriousness of what action they would take as it relates to the oath that so many of us have taken to defend and uphold the Constitutions of our State and nation.

Thank you. Thank you for your time today, sir.

MR. HOLTZMAN: Thank you, Chairman. I appreciate it. Have a good day. Thanks.

MAJORITY CHAIRMAN METCALFE: In everybody’s packet today, we have a report. There was a hearing that was held recently in western Pennsylvania, I think with the Republican Policy Committee and the Oil and Gas Caucus, and the U.S. Department of Energy personnel from that department presented The Appalachian Energy and Petrochemical Renaissance report here, that they have An Examination of Economic Progress and Opportunities. And as I looked at it, I thought this would be beneficial for all of our Members to have a copy of, because it specifically addresses the scenario that we’re in right now with the economic fallout of the coronavirus, the Chinese virus, and the resulting response of Governors like Wolf who have overreached through the process and what damage that has done and what hope the energy industry actually helps us to have for job creation and economic opportunities for our citizens moving forward out of the wake of what we have been dealing with also.
And some things were mentioned related to other hearings and other positions, particularly the position of the Governor and his DEP Secretary. First of all, today, this is a continuation of work that we have been doing on the RGGI issue since the Governor had put forward this initiative that he wanted to join this without -- as he moved forward, it got more and more evident that he wanted to move forward without our interaction as a legislative body other than being informed about it and having opportunities to discuss what he was planning on doing with or without our approval.

So we have had a number of meetings. We did move 2025, as was mentioned, and I think from what was testified to and from Representative Metzgar’s question, I would concur that that act would only crystallize the power that we already have and the position that we should already be taking, as was mentioned, as an institution. This is the power of the General Assembly to make this type of decision, and nobody should cede that power to the Executive when we have been entrusted with it by the people under our Constitution.

Now, on September 19th in 2019, we held an informational meeting with Secretary McDonnell, and he presented related to climate change, he also specifically spoke about RGGI, and he also mentioned some of the other
related programs such as the Climate Action Plan and the Transportation and Climate Initiative that was mentioned, that we might have something like that by one of our testifiers earlier, that you could get to the point where they’re going to tax you out of your automobile trying to force you into an electric car.

On October 28, 2019, we had a public hearing on climate and CO2. We heard from representatives from major environmental groups in our State, including PennFuture and the Sierra Club, PennEnvironment, the Pennsylvania Environmental Council. We heard from the Secretary again at that hearing. And the Secretary certainly dialogued again about RGGI at that hearing, and several of the environmental groups also discussed RGGI in their testimony. So we have heard that perspective over and over.

Something that I found alarming was recently, I had received a letter that I believe all the Members of the General Assembly received regarding supposed company support for RGGI, and throughout that, when you start looking at the companies who signed on to that, there was a company mentioned as being supporting in that. The company that DEP contracted with to do the neutral modeling about the economic environmental impacts of PA joining RGGI is ICF. ICF signed that letter to the EQB, along with several
other clean energy business groups supporting DEP’s RGGI proposal, and encouraging investments of RGGI funds into energy efficiency and clean energy in Pennsylvania.

So this is really the height of corruption when the supposedly neutral company whose analysis that EQB is going to rely on, that they are supposed to trust that that company is publicly lobbying in favor of what they are supposed to be analyzing in an unbiased fashion and then lobbying regarding how those funds should be spent, revealing additional further conflicts of interest. And that’s something that I hope that the Members of the General Assembly pick up on. We’ll do some further communications to help our colleagues understand just what this company, who has been contracted by the Governor to study RGGI, is out there advocating already for RGGI before we even see the analysis of RGGI. It’s just the height of corruption.

But overall, I think this testimony today that we have received, you know, we had seen recently that the DEP lost two votes in an unprecedented manner as far as anything that we can garner from what has happened in the past. But on May 19th, the Citizens Advisory Council voted 9 to 4 to reject the proposal of RGGI. Then on May 7th, where they needed to have a majority vote, the Air Quality Technical Advisory Committee, stacked with
environmentalists, voted 9 to 9 with one abstention, so
they failed to approve DEP’s proposal also.

    But DEP is planning on plowing ahead, plowing
ahead with their corruptly contracted company that is
lobbying for this before they even turn over their analysis
to the board that is supposed to vote lockstep with the
Administration, because most of them are appointees from
the Administration to advance RGGI, which will ultimately
cause a battle in the courts that the people of
Pennsylvania will pay for from both ends as taxpayers and
through their energy costs and costs who are being paid for
by those who are fighting the tax dollar and the Treasury
to try and stop this unconstitutional act.

    As was mentioned, there is major labor
organizations that have come out in favor of the position
now that is staked out by 2025 and the positions that are
staked out by many of us. We plan on having an additional
hearing. We’re going to be seeking to hear from some other
individuals that we haven’t heard from yet. But we have
heard in the past, we have heard the Secretary sit before
us and tell us how he thinks it’s legal.

    Today we heard, I thought, a very excellent
argument on why in fact so many of us believe it’s illegal
and done in a way that articulated and spelled out details
that many of us, I’m sure, weren’t even familiar with. I
know I was not as familiar with those details that were pointed out by the attorney that we just heard critique why RGGI is not something that the Governor can move ahead on without legislative approval.

So we’ll be lining up another meeting. We’re hopeful to have that meeting at the same time as we might be here in session in the coming weeks. If we’re called back in, we’re hoping to be able to coordinate it with the Speaker’s Office and the Leader. If not, we’ll still be working to move forward with an additional hearing to continue the discussion on this before we face that EQB vote in September, which could cost us all dearly if those EQB members don’t exercise the integrity that is necessary to make the decision that supports the Constitution.

Thank you all for joining today.

A motion to adjourn by Representative Metzgar, seconded by Representative James. This meeting is adjourned. Everyone have a great day.

MINORITY CHAIRMAN VITALI: Well, hopefully the next hearing will be balanced, it will have speakers from both sides, and it just won’t be one-sided.

(At 3:23 p.m., the public hearing adjourned.)
I hereby certify that the foregoing proceedings are a true and accurate transcription produced from audio on the said proceedings and that this is a correct transcript of the same.

______________________________

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