

**Illinois Chamber of Commerce Testimony on the State Plan for the Draft Environmental  
Protection Agency Affordable Clean Energy Rule**

**October 15, 2018**

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Good afternoon. My name is Katie Stonewater and I am with the Illinois Chamber of Commerce. Thank you to Vice-Chairman Thapedi and members of the Committee for the opportunity to be here today to discuss the state action plan for the proposed Affordable Clean Energy Rule, or “ACE”, offered by the U.S. Environmental Protection Agency. I think it is important we get together now to start discussions on the implementation of this effort, yet we must also remain mindful that the ACE rule is merely a proposal at this stage and may change significantly before it is finalized.

I run the Energy Council at the Illinois Chamber, which consists of the businesses in this state that make, move, and use energy. Those businesses employ tens of thousands of Illinois’ citizens, offering good-paying jobs and providing a significant tax base to our local communities. Our members on the Energy Council range from oil and gas, to solar, coal, wind, transmission, pipelines, and battery storage. The Chamber also represents energy users in this state who are directly impacted by price increases, reliability losses, or other shifts in the energy industry. Not only does the Chamber represent different generation types that supply the state with the energy resources to ensure our economy operates, we must consider the impact any changes in energy policy have for the consumer too. And as we consider energy policies in Illinois, we must consider the needs of industry to provide for the public while balancing the economic impact it will have on everyday users.

As legislators are aware, the ACE establishes a set of guidelines to allow states to develop, submit, and achieve compliance with carbon dioxide emission standards. Under Section 111 of the Clean Air Act, the US EPA must identify a Best System of Emissions Reduction (BSER) that adequately controls emissions of a particular pollutant from a particular category of existing source. In the proposed ACE, US EPA proposes to determine that heat rate improvements (HRI) are the best system of emissions reduction for existing fossil fuel-fired electric generating units (EGUs). The US EPA has also identified the most impactful HRI measures as the “candidate

technologies”, which is supplied to the states to meet the BSER. States are to consider these technologies when establishing standards of performance for affected EGUs.

The US EPA proposes to allow states to only require actions within the “fence line” of regulated activities – in this case, power plants. Fence line as clarification means measures that occur within an existing electrical power generation unit, and not factors outside the unit such as system-wide emission reduction activities. This was the biggest legal issue with the Clean Power Plan, it was outside the “fence line” and therefore outside the scope of statutory authority. States would have three years from when ACE is finalized to submit a state action plan, with the US EPA then providing one year to act on a state’s submission. If the EPA were to disapprove a state plan, or if a state did not submit a plan, the EPA would have two years to issue a federal plan for that state.

With the ACE as drafted, one thing is clear that states are in the driver’s seat. The proposed ACE rule provides a great deal of flexibility to the states and how the state develops its stakeholder process and the timing of it is important. The USEPA in its proposed rule states that “it is appropriate in this proposal to provide considerable flexibility for states to set standards of performance for units and also allow states to have considerable latitude for implementing measures and standards for affected electric generating units. States also have flexibility in the measures and processes that they put in place for affected EGUs to meet their compliance obligations.”

A cooperative framework that relies on state regulators to develop and implement carbon standards that best suit the unique circumstances of the electrical generating units, electricity users, and the electricity system in Illinois is key to successful implementation. The business community encourages state regulators to establish a stakeholder process that maximizes input from all across the state, from Cairo to Chicago, hosting opportunities for engagement through multiple public hearings, public comments, in-person meetings, policy sessions, and an opportunity for legislative review, etc. A process that promotes transparency, certainty, and predictability will allow the impacted EGUs to plan and implement the emission reduction obligations determined by the state in the least disruptive manner for all stakeholders. Clarity and predictability allow businesses to make wise investment decisions and help to reduce project risks, mitigate project cost overruns and allow the private sector the information it needs to make

informed plans. Having this entire process online and open to the public will also ensure it remains transparent, accountable, and accessible. We encourage state regulators to seek input by not only reaching out to all stakeholders but developing an easy process for receiving input.

Finally, this process should also remain politically impartial and accountable to the public. Given the timeline laid out by the US EPA for states to draft the state plan and the USEPA to respond allows for potentially two changes in administration, which can impact consistent direction of the planning process. The State could also consider establishing a process or lead regulator that is immune to swings in administration but can be held accountable to the public. That could mean appointing an impartial plan leader to organize initial stakeholder discussions to submit to the IEPA for the formal development of the plan and stakeholder engagement process. Overall, the plan should be based on fact and prioritize the need for reliable, resilient and affordable electricity.

As Illinois begins to think about how it wants to craft its state plan, it is important to recognize that the rapid pace of power sector changes could mean that regulatory decisions made today could be based on information that may be outdated within the next several years. Work by federal or state regulatory agencies and the affected sources to address section 111 (d) requirements could be overtaken by external market forces which could make those efforts redundant or put them in conflict with industry trends that are already reducing CO2 emissions. We as a state have to be very careful to allow for flexibility and foster a regulatory process that can evolve and adapt to new innovations. Unseen technological changes, new energy resources, and environmental considerations should not be hampered because the resulting recommendations were too prescriptive. We encourage the state to establish a plan that ensures future processes can adapt.

All of this being said, the US EPA has only proposed a draft rule and a lot could change when the final rule is released. That is why, in the interest of today's hearing, we should focus on discussing possibilities for the type of stakeholder engagement process the state should establish. Economics will continue to be the primary driver of efforts to reduce greenhouse gas emissions over the long-term and should be supported by sensible policies. Market forces have already resulted in a 7% decrease in power sector greenhouse gas emissions across the U.S. and according to the U.S. Energy Information Administration, the country is on target to further

reduce emissions by 7% by 2020 in the electric power sector alone. This is without a federal policy to regulate greenhouse gas emissions for EGUs. We have seen great strides in emission reductions technologies over the last few decades and the business community believes we will continue on that track if we set-up a system that allows innovation and technology to make an impact and not hurt progress. The private sector plays a unique and irreplaceable role in developing, financing, building, and operating new energy and technologies of the future and we should support flexible and practical policies to manage climate risks and ensure those innovations thrive.

There are many varying opinions on this plan and I encourage all of us to focus on the task at hand to implement the best plan we can for the state of Illinois. That will take significant collaboration, analysis, and goodwill to take this opportunity to move the state forward in further reducing greenhouse gas emissions from fossil-fuel generating electricity units. In Illinois, that represents a significant chunk of our economy and generating capacity. Let's not forget the jobs, the families, or the school systems and government services that are supported by those tax dollars. Immediate change is a shock to any family, business or economy. This plan may be an opportunity for Illinois to carefully address greenhouse gas emissions while meeting our commitment to providing reliable, resilient and affordable electricity.

Illinois has a lot of opportunity to craft a plan that fits its economy, that is responsive to its citizens, and ensures electricity can continue to be delivered to the public while carefully addressing greenhouse gas emissions and moving forward toward more efficient and cleaner electric generation. Thank you again to Vice-Chairman Thapedi and the Committee for recognizing that progress and success start with a collaborative conversation. We look forward to working with all of you in developing this plan after the final rule is released.