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HOUSE OF REPRESENTATIVES

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AND ENERGY COMMITTEE  
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TUESDAY, JULY 21, 2020  
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

\* \* \* \* \*

*Debra B. Miller*  
[dbmreporting@msn.com](mailto:dbmreporting@msn.com)

COMMITTEE STAFF PRESENT:

GLENDON KING

MAJORITY EXECUTIVE DIRECTOR

GRIFFIN CARUSO

MAJORITY RESEARCH ANALYST

ALEX SLOAD

MAJORITY RESEARCH ANALYST

PAM NEUGARD

MAJORITY ADMINISTRATIVE ASSISTANT

SARAH IVERSEN

DEMOCRATIC EXECUTIVE DIRECTOR

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\* \* \*

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SUBMITTED WRITTEN TESTIMONY

\* \* \*

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P R O C E E D I N G S

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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

1 bureaucratic means rather than through legislative  
2 approval. And we have had hearings in the past on this  
3 issue, on the issue that this is being driven by climate  
4 change that is supposedly being used to try and drive us  
5 into this RGGI program.

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

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

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

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

23 MAJORITY CHAIRMAN METCALFE: Excuse me.

24 MINORITY CHAIRMAN VITALI: That's a common  
25 courtesy---

1 MAJORITY CHAIRMAN METCALFE: Excuse me.

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

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

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

10 MAJORITY CHAIRMAN METCALFE: Representative  
11 Vitali---

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

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

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

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

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

22 MAJORITY CHAIRMAN METCALFE: Representative  
23 Vitali.

24 MINORITY CHAIRMAN VITALI: ---and not one of them  
25 can explain or defend RGGI.

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

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

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

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

14 MS. BLOODWORTH: Thank you.

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

18 MS. BLOODWORTH: I have been warned.

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

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

23 MAJORITY CHAIRMAN METCALFE: Representative  
24 Vitali, please refrain from turning on your microphone  
25 until you are recognized in the future. Thank you.

1 MS. BLOODWORTH: All right. Well, good  
2 afternoon, Chairman Metcalfe, Chairman Vitali, and Members  
3 of the Environmental Resources and Energy Committee.

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

11 At the outset of my testimony, I would like to  
12 make three points. First, climate change is a very  
13 important issue for all of us because of its environmental  
14 and economic consequences. Second, joining RGGI's  
15 cap-and-trade program is not a sensible or meaningful way  
16 to address climate change. Third, the nation's fleet of  
17 coal-fired electric generating units is only the  
18 number-three source of energy-related carbon emissions in  
19 the United States economy. Transportation is first at  
20 45 percent and natural gas is second at 29 percent. Coal  
21 is 26 percent of those emissions.

22 To be clear, there are no real climate change  
23 benefits from joining RGGI. That's because joining RGGI  
24 would reduce carbon emissions by a trivial amount.  
25 According to a DEP analysis, CO2 emissions from the U.S.



1 electricity generation are almost the same regardless of  
2 whether Pennsylvania does or does not join RGGI.

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

- 5
- 6 • 1.127 billion tons per year over the period
- 7 that DEP analyzed if Pennsylvania joined RGGI;
- 8 and
- 9 • 1.13 billion tons per year if the Commonwealth
- 10 did not join RGGI.

11

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

17 U.S. greenhouse gas emissions totaled more than  
18 7 billion tons in 2018. A reduction of 3 million tons per  
19 year if Pennsylvania joined RGGI would equate to a  
20 reduction of 0.05 percent in U.S. emissions, which is  
21 basically a rounding error for all practical purposes. If  
22 you had \$10, it would be equivalent to reducing that by  
23 half a cent.

24 More importantly, worldwide greenhouse gas  
25 emissions total more than 50 billion tons. Reducing

1 emissions by 3 million tons would be smaller than a  
2 rounding error, and the climate effect would be  
3 meaningless.

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

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

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

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

- 22
- 23           • Helps maintain grid reliability;
- 24           • It is a highly resilient source of
- 25           electricity;

- 1 • It's one of the two most fuel-secure
- 2 electricity sources we have;
- 3 • It provides affordable electricity;
- 4 • It serves as an insurance policy against
- 5 spikes in fuel and electricity prices, like
- 6 during the bomb cyclone or the polar vortex;
- 7 and
- 8 • It also promotes national security because of
- 9 its resilience and reliability.

10  
11 And a good example is today. It's not quite  
12 100 degrees, but it feels like 100 degrees. When you look  
13 at the electricity generation of the coal fleet in PJM,  
14 it's providing about 26 percent of all the electricity  
15 generated so we can all have nice air-conditioning in this  
16 room today, where wind and solar -- and I have nothing  
17 against wind and solar. I think we need all resources --  
18 wind and solar combined are providing less than 1.5 of the  
19 electricity. And I would submit without the coal fleet,  
20 natural gas, and nuclear, we wouldn't all enjoy the  
21 air-conditioning we have today.

22 As I'm sure you're aware, the nation's  
23 electricity grid is undergoing profound changes that  
24 include the retirement of traditional baseload sources of  
25 electricity, especially coal and nuclear. These changes

1 have certainly become more complicated because of the  
2 pandemic.

3           Much of this retiring capacity is being replaced  
4 with natural gas and renewables, each which has a unique  
5 role to play as part of a diverse energy portfolio.

6 However, the grid's increasing dependence along with the  
7 retirement of fuel-secure coal and nuclear plants have led  
8 to concerns that these trends may be jeopardizing both the  
9 reliability and the resilience of the electric grid. Such  
10 concerns have been raised by the Department of Energy, the  
11 Federal Energy Regulatory, the National Energy Regulatory  
12 Commission, grid operators, the National Academy of  
13 Sciences, and many others.

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

22           A good example of the importance of fuel security  
23 comes from the PJM system, which we study closely. During  
24 the polar vortex storm of January of 2018, high electricity  
25 demand drove natural gas prices to levels nearly 40 times

1 higher than they had been the previous month, and a study  
2 from NETL, a branch of DOE, concluded that there simply was  
3 not enough gas available to supply all of the power plants  
4 that needed it during that peak extreme winter weather.  
5 For that reason, an additional 26,000 megawatts of coal  
6 generation was called on to keep the lights on.

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

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

1 the region.

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

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

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

24 MAJORITY CHAIRMAN METCALFE: Thank you, ma'am.

25 Our first question would be from Representative

1 Schemel.

2 REPRESENTATIVE SCHEMEL: Thank you, Mr. Chair.

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

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

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

1 Thank you.

2 MS. BLOODWORTH: Yes. Well, that's a great  
3 question.

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

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

20 MAJORITY CHAIRMAN METCALFE: Thank you,  
21 Representative Schemel.

22 Representative Vitali.

23 MINORITY CHAIRMAN VITALI: Thank you.

24 I'm glad you noted that climate change was an  
25 important issue. I mean, you know, some would say it's an



1 existential issue, one of the most important issues this  
2 planet faces. And scientists also tell us that unless we  
3 get to carbon neutrality by 2050, which is approaching,  
4 we're going to suffer terrible, terrible, terrible  
5 consequences.

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

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

19 MS. BLOODWORTH: Thank you, Chairman. Oh, that's  
20 a great question.

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

25 MINORITY CHAIRMAN VITALI: Got that part.

1 MS. BLOODWORTH: ---would have any meaningful  
2 impact on climate change.

3 MINORITY CHAIRMAN VITALI: Got that part.

4 MS. BLOODWORTH: What we support is a  
5 technology-based approach, and a good example would be  
6 conventional air pollutants. Since 1979, the coal fleet  
7 and coal owners, power plant owners, have invested almost  
8 \$100 billion in conventional air pollutants because of  
9 research.

10 Technology demonstrates---

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

13 MS. BLOODWORTH: Correct.

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

20 Right now, EPA regulates carbon on coal plants,  
21 and so they will be deploying heat-rate improvement  
22 measures, making the power plants more efficient, which  
23 obviously reduces carbon emissions. In the near term, we  
24 certainly support high efficiency, low emissions  
25 technology, some of the most efficient coal plants in the

1 United States. Then longer term, with sustained  
2 investment, we support, a great example is right here, the  
3 largest coal operator, CONSOL Energy, has been awarded and  
4 certainly is a leader in technology, has embarked on a  
5 project to put in a coal plant, a 300-megawatt coal plant.

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

9 MS. BLOODWORTH: Yeah.

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

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

15 MINORITY CHAIRMAN VITALI: It's going to happen  
16 because of natural gas.

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

20 China, right now there are 250 megawatts, or  
21 gigawatts of coal in the United States. China, in the next  
22 5 years, is going to add twice as many as we even have in  
23 the United States. So if we don't invest in technology for  
24 fossil fuel, natural gas and coal, carbon capture and  
25 sequestration, then we're not going to be able to provide

1 all of the other affordable reliables so all of us have  
2 electricity and we have it during a bomb cyclone. So we  
3 supported a technology-based approach and hope the State of  
4 Pennsylvania will support that as well.

5 Thank you.

6 MINORITY CHAIRMAN VITALI: Thank you.

7 MAJORITY CHAIRMAN METCALFE: Representative  
8 Lee James.

9 REPRESENTATIVE JAMES: Thank you, Mr. Chairman.

10 Thank you for your testimony today. I appreciate  
11 that.

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

21 Thank you.

22 MS. BLOODWORTH: Well, according to the  
23 Pennsylvania Coal Association, there are approximately  
24 18,000 jobs related to the coal supply chain in  
25 Pennsylvania. They contribute about \$4 billion to the

1 economy and I think about 7 billion on a statewide basis.  
2 So certainly those jobs would be at risk.

3           The coal industry, like many others, is very  
4 capital intensive, and so if we don't have a coal fleet,  
5 then we're not going to have rail and barge operators,  
6 manufacturers and coal producers, to be able, for the coal  
7 fleets that are remaining as technology gets better and  
8 better deployed, for advanced coal technology, that  
9 industry will not be here.

10           If you look at PJM, the Department of Energy  
11 recently did a study. During the pandemic, coal was  
12 impacted more than any other fuel. So coal demand was down  
13 44 percent. That affects everybody in the coal supply  
14 chain -- coal producer, rail, barge -- 44 percent during  
15 the period of March through May compared to prior years  
16 March through May.

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

23           REPRESENTATIVE JAMES: Thank you, Mr. Chairman.

24           MAJORITY CHAIRMAN METCALFE: Thank you,  
25 Representative James.

1 Representative Dush.

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

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

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

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

22 Thank you.

23 MS. BLOODWORTH: Yes, we absolutely think,  
24 contrary to what some think, that the coal industry is not  
25 dead. Coal, for all the reasons I mentioned --

1 reliability, resilience, national security, and affordable  
2 electricity -- is not going away.

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

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

17           So Coal FIRST is Flexible, Innovative,  
18 Transformative, Resilient. We very much support their  
19 investment in more flexible modular, smaller coal units,  
20 like what CONSOL is developing, and then they're also  
21 looking at and working certainly to export that technology  
22 to countries like China on carbon-capture utilization and  
23 storage. But DOE has invested about \$81 million in  
24 coal-clean technology, and we certainly commend and support  
25 their efforts.

1           REPRESENTATIVE DUSH: All right. Thank you,  
2 Michelle.

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

8           MS. BLOODWORTH: Right.

9           REPRESENTATIVE DUSH: And, they're not doing the  
10 scrubbing that we are doing---

11          MS. BLOODWORTH: Right.

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

16          MS. BLOODWORTH: That's very, very true. Thank  
17 you.

18          MAJORITY CHAIRMAN METCALFE: Representative  
19 Krueger.

20          REPRESENTATIVE KRUEGER: Thank you, Mr. Chairman.

21          Thank you, Ms. Bloodworth, for joining us here  
22 today.

23          I wanted to correct the record on something. In  
24 the first two pages of your testimony, you say that  
25 Pennsylvania joining RGGI would reduce CO2 emissions by a



1 trivial amount, and you cite 3 million tons a year. Well,  
2 according to the DEP, joining RGGI would actually mean a  
3 reduction of 188 million tons of carbon emissions over the  
4 first 8 years of the program, an average of 23 million a  
5 year. So I just wanted to note that for the record.

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

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

17           MS. BLOODWORTH: Well, my association solely  
18 focuses on coal electricity, so what we're trying to do,  
19 which obviously will indirectly benefit communities for  
20 workers of the coal supply chain, is to ensure that we do  
21 not have any premature coal retirements. Because when you  
22 prematurely retire a coal plant, it's the people in the  
23 communities who lose the jobs and it's the people who pay  
24 higher electricity prices, and they're going to pay the  
25 stranded cost for that investment.

1           And so to replace those, whether that's with  
2 natural gas or whether that's with renewables, is going to  
3 result in higher electricity prices, because if you look at  
4 the levelized cost of electricity right now of a coal  
5 plant, which is looking at the all-in costs, and you  
6 compare that to building new renewables -- solar, wind,  
7 even building a new natural gas plant -- on a national  
8 average basis, it is still a better investment to retain  
9 that coal plant, just like whether you're deciding to buy a  
10 new car or keep the one that you have because it's already  
11 paid off or it has already depreciated and the only costs  
12 you have is your fuel, your gasoline. That's the same  
13 thing with a coal plant.

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

21           REPRESENTATIVE KRUEGER: So you didn't directly  
22 answer my question. I understand that you represent a  
23 trade association, but your members are companies who have  
24 been extremely profitable. What are they doing right now  
25 to help their employees who have driven their profit margin

1 in the midst of this energy transition?

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

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

12 REPRESENTATIVE KRUEGER: The last question.

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

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

17 REPRESENTATIVE KRUEGER: Thank you.

18 MAJORITY CHAIRMAN METCALFE: Representative  
19 Sankey.

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

22 I guess I have a question and a brief comment.

23 And, Michelle, the best approximate answer you  
24 can get: Do you know how many coal power plants are  
25 planned or under construction in the world?

1 MS. BLOODWORTH: Yes. There's actually about  
2 500 gigawatts, which would be, between 2021 and 2025---

3 REPRESENTATIVE SANKEY: Okay.

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

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

9 MS. BLOODWORTH: None.

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

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

15 MS. BLOODWORTH: Right.

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

20 I think what we get lost in, and I'll give you a  
21 little background on myself. I have a zero-percent  
22 lifetime voting record with most of the environmental  
23 groups. But in 2016, I was awarded the County  
24 Conservation's Environmental Legislator of the Year. So I  
25 would say that to some, we have done a lot of work on the

1 environment, and others don't feel that way, but that's  
2 just where I come from. And I think that we get a  
3 narrative kind of pushed about maybe not everyone  
4 completely understands the impact of coal, so I'm for all  
5 above, too.

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

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

20           MS. BLOODWORTH: Thank you. No, that's a great  
21 point.

22           And I think, I mean, every resource has its  
23 attributes and they all have its disadvantages and  
24 advantages, and I just feel like people try to target coal  
25 more. Certainly coal is continuing to try to invest in

1 technology and has made significant strides in reducing  
2 conventional pollutants since 1979.

3 Thank you.

4 MAJORITY CHAIRMAN METCALFE: Thank you,  
5 Representative Sankey.

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

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

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

14 MS. BLOODWORTH: India is another one.

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

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

23 MS. BLOODWORTH: Correct.

24 MAJORITY CHAIRMAN METCALFE: They don't  
25 understand what provides the electricity in their home

1 during hot days like today or cold days like we have seen,  
2 especially in Pennsylvania, during the wintertime. They  
3 don't understand that the byproducts of the oil and gas  
4 industry are providing many of the plastics that you're  
5 seeing in the medical rooms where people are being treated  
6 for coronavirus now. They don't understand that the cell  
7 phones that they're carrying around are also, the cases for  
8 those are byproducts of that same industry, the fossil fuel  
9 industry.

10 MS. BLOODWORTH: Yes.

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

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

20 MS. BLOODWORTH: Thank you so much.

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

24 Our next testifier is a gentleman that we have  
25 heard from in the past at one of our hearings,

1 Mr. Shawn Steffee. He is the Executive Board  
2 Trustee/Business Agent for Boilermakers Local 154.

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

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

17 MR. STEFFEE: Okay.

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

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

24 So we basically all noted Governor Wolf. The  
25 DEP, environmental groups, progressive politicians, support



1 our Governor through the Executive Order to join a  
2 multistate program called RGGI. Okay? And through this  
3 Executive Order, he has taken to silencing our voters and  
4 he is also silencing the Legislators on both sides, the  
5 House and the Senate, not giving them dual chance to  
6 represent their districts. Okay?

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

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

18 An unprecedented alliance is formed. It's called  
19 the PA Power, or Power PA Jobs. This is all organized  
20 labor and the building trades, our State building trades  
21 labor council, our local building trades councils, our coal  
22 and gas industry leaders, bipartisan support on both the  
23 House and Senate. We got manufacturing leaders. All  
24 oppose RGGI. Every one of us opposes RGGI. It's not a  
25 good idea. It's all risk and no reward.

1           AQTAC and the CAC committees both refused to  
2 give, by a majority vote, did not endorse RGGI through the  
3 DEP, their regulations. That's unprecedented.

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

11           The Beaver Valley nuclear plant did stay open,  
12 and now they advocate their clean nuclear energy, and they  
13 do sit in Pennsylvania condemning coal and gas. But what  
14 you left out was Energy Harbor has four massive coal plants  
15 just across the border in Ohio and West Virginia where they  
16 are investing millions to strengthen their coal fleet with  
17 10- and 12-week outages this spring during the COVID-19  
18 pandemic. I know this, because Boilermakers manned them  
19 jobs.

20           AEP, who owns a coal-fired power plant in  
21 Brilliant, Ohio, a stone's throw away across the border,  
22 also had a 10-week outage this spring, and now, right now  
23 in July, is investing \$50 million on a dry ash system that  
24 includes new silos and baghouses on all three of their  
25 coal-fired units.

1           West Virginia and Ohio are applauding our effort  
2 to join RGGI, which they refuse to, looking to capitalize  
3 on our stupidity, all in the name of CO2 emissions that  
4 will not change. I sent you a map. This is out of the  
5 U.S. Energy Magazine. I had it circled. It's a little bit  
6 hard, but the black is coal, the orange is gas, and if you  
7 can see that, our border is surrounded by these coal plants  
8 I'm talking about and more. And if anybody watches the  
9 weather, I don't know where it's mostly coming from, but  
10 I'll tell you, it's blowing right back in Pennsylvania.

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

18           Representative Vitali, you adamantly push to  
19 eliminate fossil fuels and the industry that use them. You  
20 praise renewables and believe they are the answer to  
21 climate change and our electricity needs. But the big  
22 thing you fail to acknowledge, they need massive amounts of  
23 fossil fuels, rare-earth minerals, and potent greenhouse  
24 gases like sulfur trifluoride, 23,000 times more potent  
25 than CO2; nitrogen trifluoride, 17,000 times more potent

1 than CO2, used in cleaning agents in the solar  
2 manufacturing, and they still need energy-intensive  
3 industry like our steel mills just to even exist. But  
4 here's the real catch: They must be backed up by a fossil  
5 fuel electricity power plant, because no matter how you  
6 slice it, they are an intermittent, unreliable source of  
7 electricity.

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

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

24           Representative Otten told me last time that I was  
25 here that we need to plant more trees and use more

1 renewables, so I looked up the specs on a proposed solar  
2 farm back in York, Pennsylvania. This solar farm would  
3 contain 250,000 solar PV panels on 500 acres to produce  
4 80 megawatts of power, and this is if the sun is shining it  
5 can produce 80 megawatts of power.

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

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

20           So if we were going to use windmills to replace  
21 our coal-fired plants, we would need 2,800 windmills on  
22 140,000 acres. So just how many trees are we planting,  
23 Representative Otten? Because right here, I also sent you  
24 this: This is the average industrial wind facilities, the  
25 land, and if you look on there, it's pretty amazing. And I

1 think I'm conservative on my numbers. On the last page, it  
2 tells you the rule of thumb on what the windmills need by  
3 megawatts -- 1.5, 2.0.

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

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

22           Microsoft, Google, and Tesla and more claim they  
23 are 100 percent renewable. That's a complete lie. They  
24 are tied to the grid. As you can see, they do not, they  
25 can't say, hey, you're going to get renewables; you're

1 going to get coal; you're going to get nuclear. It goes  
2 into the same place. So people who believe they are  
3 receiving 100 percent green renewable electricity from the  
4 box they checked for their provider is simply not true.  
5 There's a word for this; it's called "greenwashing."

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

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

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

1 great family-sustaining jobs to.

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

9           So now I get asked by these nonprofit  
10 environmental organizations like the Sierra Club and  
11 PennFuture that take millions in donations from billionaire  
12 renewable investors and timber investment titans to push an  
13 agenda that they will just profit from. So I ask you, just  
14 watch the *Planet of the Humans* documentary film viewed  
15 8 million times on YouTube. This was written and produced  
16 by high-profile environmentalists who once were a part of  
17 the very fabric the climate movement represented. They  
18 could no longer sit silent regarding the lies and  
19 corruptness surrounding the renewable energy industry.  
20 You'll be left speechless.

21           So after watching that movie, I went and seen  
22 one of the Sierra Club's big donors. His name is  
23 Jeremy Grantham, and I looked him up on Wikipedia. He has  
24 given millions to the Sierra Club, and here's what it says  
25 of his big timber investment: "Grantham is known to be a



1 strong advocate for investments in the timber industry that  
2 also relies on trees for biomass/biofuel....” Okay? He  
3 has given millions to the Beyond Coal campaign for the  
4 Sierra Club. I don’t know, we’re going to be cutting a  
5 hell of a lot of trees down if we join the renewable  
6 industry, ain’t we? Somebody is going to profit from  
7 hundreds of thousands of acres being cut.

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

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

24 The time has come for the rubber to hit the road,  
25 and I am choosing the car powered by fossil fuels and the

1 men and women of the Power PA Jobs Alliance driving it.

2 Thank you.

3 MAJORITY CHAIRMAN METCALFE: Thank you, sir.

4 Our first question is from Representative  
5 Metzgar.

6 REPRESENTATIVE METZGAR: Thank you, Mr. Chairman.

7 And thank you for the tremendous testimony. I  
8 appreciate that. And I mostly thank you for the work that  
9 you and your members do to not only electrify Pennsylvania  
10 but also to power the entire PJM grid. We appreciate that.

11 You had started out by saying that you felt that  
12 Members of the General Assembly should have a say in this  
13 issue, and that was you referenced the bill that we had  
14 before the House to simply say that, that the General  
15 Assembly should have some say in this, that we're the  
16 closest to the people, that we're not, you know, the  
17 Governor in his Mansion.

18 I guess I'm wondering, what do you and your  
19 members think of, you know, the rationale and your thought  
20 process of the Members of the General Assembly who want to  
21 shirk that responsibility and not have any say in this?

22 MR. STEFFEE: Here's what I say to that.

23 You guys were elected to represent us. You  
24 can't hit the easy button. This isn't an easy topic. It  
25 needs to be debated. There are so many competent

1 individuals and industry leaders that are telling you this  
2 is no good.

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

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

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

20           MAJORITY CHAIRMAN METCALFE: Thank you,  
21 Representative Metzgar.

22           Representative Vitali.

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

25           MR. STEFFEE: Yes, I am.

1           MINORITY CHAIRMAN VITALI: This idea that this  
2 bill was all about giving the people and the Legislators a  
3 say is total bull and you know it.

4           MR. STEFFEE: It's not.

5           MINORITY CHAIRMAN VITALI: It is about killing  
6 RGGI. That's all it's about.

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

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

15           MR. STEFFEE: If you're so worried about climate  
16 change---

17           MINORITY CHAIRMAN VITALI: I am.

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

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

25           MR. STEFFEE: Right now, North Dakota---

1           MINORITY CHAIRMAN VITALI: Put it on your coal  
2 plants then. Put carbon capture and sequestration on your  
3 coal plants and we don't have a problem. That's bull.  
4 That's bull.

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

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

10          MR. STEFFEE: My sense of social responsibility  
11 don't cause---

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

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

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

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

24          MINORITY CHAIRMAN VITALI: Well, he just hollered  
25 at us for about 20 minutes, so.

1 MAJORITY CHAIRMAN METCALFE: Representative  
2 Vitali---

3 MR. STEFFEE: So I'll answer your question  
4 calmly.

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

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

15 MAJORITY CHAIRMAN METCALFE: Representative  
16 Vitali---

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

19 MAJORITY CHAIRMAN METCALFE: Representative  
20 Vitali---

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

24 MR. STEFFEE: Listen, Representative Vitali, I  
25 got a couple words for you here.

1 Right now, you have a small sector of people in  
2 this State that absolutely follow their green, no electric.  
3 They're called Amish.

4 MINORITY CHAIRMAN VITALI: Yeah.

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

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

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

12 MINORITY CHAIRMAN VITALI: And labor unions need  
13 to show some social responsibility---

14 MR. STEFFEE: ---are driven by fossil fuels.

15 MINORITY CHAIRMAN VITALI: ---and labor unions  
16 need to think more about their own jobs---

17 MR. STEFFEE: I'm thinking about them.

18 MINORITY CHAIRMAN VITALI: ---and more about the  
19 society in general.

20 MAJORITY CHAIRMAN METCALFE: Representative  
21 Vitali, Representative Vitali, if you want to follow the  
22 model that we'll set out by calling business owners and  
23 Legislators cowards who actually want people to be able to  
24 have their jobs back and follow that model and insult  
25 guests, you can do that on your own time but not with this

1 Committee's time. Please shut your microphone off. We're  
2 done with your engagement with this guest.

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

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

7 MR. STEFFEE: Not a problem.

8 MAJORITY CHAIRMAN METCALFE: They'll be more  
9 hospitable.

10 MR. STEFFEE: Okay.

11 MAJORITY CHAIRMAN METCALFE: Representative Dush.

12 REPRESENTATIVE DUSH: Thank you, Shawn. Thank  
13 you, Chairman.

14 Shawn, you're one of those competent individuals  
15 representing the people you mentioned before. We, all the  
16 biomass, the timber and stuff like that, they got to take  
17 carbon-burning machines out there to harvest that. All of  
18 these different things that are totally left off the table,  
19 it really -- well, the discussion of it, it's all  
20 one-sided.

21 So one of the things I definitely want to ask is,  
22 most of the large statewide labor organizations oppose  
23 RGGI. Why would and should labor unions outside of our  
24 area consider this? I mean, what's the impact going to be  
25 in the shift in the labor market as well as I know these



1 bordering States, they're anxious to get those wages and  
2 get the people to move down there.

3 MR. STEFFEE: Absolutely. West Virginia, Ohio,  
4 and Kentucky, they'll love it.

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

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

22 MAJORITY CHAIRMAN METCALFE: Thank you,  
23 Representative Dush.

24 Representative James.

25 REPRESENTATIVE JAMES: Thank you, Mr. Chairman.

1 Thank you for your very powerful testimony.

2 Right now in Pennsylvania, we're operating with a  
3 roughly \$33 billion budget, but we only have an estimated  
4 \$30 billion available to pay all of our bills. That's a  
5 problem.

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

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

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

23 For me, it's 1500 members. If them plants close,  
24 I work in the fossil fuel industry, and if we don't want to  
25 build petrochemical plants and use our coal-fired fleets

1 and new gas plants, my members are moving on. They're not  
2 sticking around for a 24,000-a-year job squeegeeing off  
3 solar panels. Okay? They're going. They're skilled  
4 workers. They're skilled, high-pressure welders. They're  
5 going to where the work is. They're going to pick up their  
6 families and they're going, and it will be tremendous.

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

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

22           REPRESENTATIVE JAMES: Thank you.

23           Thank you, Mr. Chairman.

24           MAJORITY CHAIRMAN METCALFE: Thank you,  
25 Representative James.

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

9           MR. STEFFEE: Yes, sir.

10           MAJORITY CHAIRMAN METCALFE: ---don't enlist us  
11 in this scheme of RGGI.

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

21           MAJORITY CHAIRMAN METCALFE: Thank you, sir.

22           I appreciate your time with us today.

23           MR. STEFFEE: Thank you, sir.

24           MAJORITY CHAIRMAN METCALFE: Thank you for your  
25 excellent testimony.

1 MR. STEFFEE: I look forward to doing it again.

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

4 Our next testifier will be Ms. Ashley  
5 Klingensmith. She's the State Director of Americans for  
6 Prosperity.

7 Good afternoon.

8 MS. KLINGENSMITH: Good afternoon. How are you?

9 MAJORITY CHAIRMAN METCALFE: Good to see you.  
10 Thanks for coming and joining us today.

11 MS. KLINGENSMITH: Thanks so much for having me.

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

16 I want to start my comments by thanking this  
17 Committee and the full House for the passage of House Bill  
18 2025. We applaud bipartisan efforts to safeguard the  
19 integrity of the regulatory process by upholding the  
20 General Assembly's role in determining the public policies  
21 of the Commonwealth. We hope your colleagues in the Senate  
22 will follow your lead and swiftly consider legislation.

23 My testimony today, though, is going to focus on  
24 four key aspects. So first, the process for joining RGGI;  
25 second, energy poverty in Pennsylvania; third, the futility

1 of RGGI and its unintended consequences; and fourth, the  
2 faulty premises from the DEP.

3 So first, the process for joining RGGI:

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

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

22 So second, energy poverty in Pennsylvania:

23 RGGI is a tax on energy with highly questionable  
24 benefits and tangible costs, especially for the least  
25 fortunate already experiencing energy poverty. Put simply,

1 joining RGGI is "all pain, no gain" for hardworking  
2 Pennsylvanians. Note that economists consider an  
3 "affordable" energy bill to be 6 percent of income, but  
4 many families around the country pay a lot more.

5           According to the most recent results from Energy  
6 Information Agency's *Residential Energy Consumption Survey*,  
7 nearly one-third of U.S. households -- that's 31 percent --  
8 reported facing a challenge in paying energy bills or  
9 sustaining adequate heating and cooling in their homes in  
10 2015. Furthermore, about one in five households reported  
11 reducing or relinquishing necessities such as food and  
12 medicine just to pay an energy bill.

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

22           And perhaps more disconcerting is the fact  
23 reported by the Pennsylvania Public Utility Commission that  
24 found that amongst the least fortunate, "Pennsylvania's  
25 average energy burdens for all energy sources were among

1 the highest in the country for households below 150% of the  
2 poverty level.”

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

10           So the futility of RGGI and its unintended  
11 consequences:

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

19           Consider that U.S. per capita carbon dioxide  
20 emissions are at their lowest level since 1955, dropping  
21 23 percent from their peak in 1981.

22           In our Commonwealth’s power sector where RGGI’s  
23 purported policy impacts would occur, the declines are also  
24 significant. The latest Greenhouse Gas Inventory published  
25 by the Department of Environmental Protection registers a



1 30-percent decline in carbon emissions associated with  
2 electricity production between 2000 and 2016.

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

9 Supporters of RGGI argue that the program has  
10 produced substantial decreases in power plant emissions  
11 since its inception. Nevertheless, a peer-reviewed study  
12 from the Cato Institute looked at the period from '07 to  
13 2015 and challenges this assertion by showing that RGGI  
14 States simply tracked with reductions seen across the  
15 country in reaction to natural gas prices and a slew of new  
16 regulations promulgated by the EPA during the past  
17 Administration.

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

25 But while the program did little to contribute to

1 the stated goal of emission reductions, the impact of the  
2 higher electricity prices in the RGGI States has  
3 contributed to a 12-percent drop in goods production and a  
4 34-percent drop in the production of energy-intensive goods  
5 between 2007 and 2015.

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

9           The fact, as mentioned above, is also appreciated  
10 in RGGI States' 18 percent drop in industrial electricity  
11 demand, while non-RGGI comparison States fell only  
12 4 percent.

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

19           Furthermore, RGGI's policy goal of reducing  
20 emissions would not be accomplished because these losses  
21 for Pennsylvania will simply lead to the export of  
22 emissions and jobs to other jurisdictions, both foreign and  
23 domestic, as prior speakers have alluded to, some with  
24 higher carbon intensity per unit of production, thereby  
25 nullifying any potential contributions achieved here in PA.

1           This phenomenon is known as "leakage." It is  
2 critical to understand the futility of these sorts of  
3 cap-and-trade regimes, especially considering their stated  
4 policy goals of reducing carbon emissions.

5           And so last, the faulty premises from the DEP:

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

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

- 15
- 16           • Virtually none of the claimed benefits for  
17 RGGI membership are related to reducing CO2  
18 emissions, the stated goal of the program.
- 19           • Instead, virtually all of the claimed benefits  
20 for this carbon dioxide-focused program are a  
21 result of ancillary benefits accrued from  
22 incidental reductions in emissions of sulfur  
23 dioxide and oxides or nitrogen.
- 24           • Basing critical public policy decisions on  
25 these ancillary benefits without serious

1 consideration of the costs to low-income  
2 Pennsylvanians is highly problematic.

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

- 21 • DEP incorrectly states that their approach to  
22 valuing these ancillary benefits is based on  
23 an EPA methodology. However, in recent  
24 regulatory actions related to the Mercury and  
25 Air Toxics Standards, Cost-Benefit Analysis

1           for Clean Air Regulations, and National  
2           Ambient Air Quality Standards for Particulate  
3           Matter, the agency and its independent science  
4           advisors have expressly rejected that  
5           methodology. In addition, it reports to  
6           Congress over the past two decades, the White  
7           House Office of Information and Regulatory  
8           Affairs has identified five key uncertainties  
9           and assumptions in this approach that  
10          undermine its use for policy decisions.

11  
12           So in our view, it appears that DEP has really  
13          failed to properly weigh the alternatives to achieve the  
14          intended benefits of the program, mainly if those benefits  
15          could be potentially achieved in a more cost-effective way  
16          that does not penalize families, workers, and businesses in  
17          our State.

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

20           To date, one of the most thorough reviews of RGGI  
21          found that there "were no added reductions in CO2  
22          emissions, or associated health benefits, from the RGGI  
23          program. RGGI emission reductions are consistent with  
24          national trend changes caused by new EPA power plant  
25          regulations and lower natural gas prices."

1           Similarly, the nonpartisan Congressional Research  
2 Service found that from a practical standpoint, the RGGI  
3 program's contribution to directly reducing the GHG  
4 emissions is arguably negligible.

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

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

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

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

24           So thank you so much.

25           MAJORITY CHAIRMAN METCALFE: Thank you.

1           Our first member with a question is  
2 Representative Schemel.

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

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

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

21           So when examining this, do you believe, you know,  
22 if we join RGGI, what do we know? We know that it will  
23 reduce available electricity and increase the cost of  
24 electricity. Increased cost of electricity will make  
25 electric automobiles less attractive to a consumer, just

1 the way that increased gasoline makes current automobiles  
2 with internal combustion engines less attractive.

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

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

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

22 REPRESENTATIVE SCHEMEL: Thank you.

23 So perhaps we're barking up the wrong tree by  
24 looking at power plants or power generation as the villain.  
25 They're actually the savior, and I think that they



1 potentially are the savior that brings about the green  
2 revolution that others seek. But that would require  
3 inexpensive and plentiful energy, which can only be  
4 provided by the conventional sources we have today.

5 Thank you.

6 MAJORITY CHAIRMAN METCALFE: Thank you,  
7 Representative Schemel.

8 Representative Isaacson.

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

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

16 And not to get into what has been debated so  
17 hotly but to listen to what the testimony has brought back,  
18 the previous testifiers both went back to carbon capture  
19 sequestration as a venue to achieve some of our goals. And  
20 certainly that is something that I was wondering, is that  
21 something your organization would be supportive of in  
22 helping bring our majority to bringing this about in  
23 Pennsylvania, because certainly if it's going to help  
24 reduce the carbon emissions in Pennsylvania and it's  
25 something most of the testifiers here today seem to be

1 supportive of, it's something maybe we could all get around  
2 instead of just sitting here going around having arguments  
3 when we could possibly achieve some sort of policy goal  
4 here today.

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

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

18 And so I think a lot of times those voices can  
19 get lost in policy conversations. We have offices in Erie,  
20 and we have a staffer in Philadelphia and right here in  
21 Wormleysburg and Potter County and Pittsburgh. And, you  
22 know, folks are just saying they are at their wit's end  
23 right now, and so to think about adding an additional  
24 financial burden to their shoulders is I think  
25 incomprehensible to a lot of them.

1                   So I would look forward to talking about that,  
2                   though.

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

10                   Thank you very much.

11                   MS. KLINGENSMITH: Yeah. Absolutely.

12                   MAJORITY CHAIRMAN METCALFE: Thank you.

13                   Representative Metzgar.

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

23                   And I'm curious as to whether, you know, when  
24                   things don't make sense, I'm wondering with all the smart  
25                   people that are behind this initiative, you don't suppose

1 that they're not foolish at all but instead that they are  
2 actually intentionally trying to handicap America?

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

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

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

22 Just this morning driving here from Pittsburgh, I  
23 heard on the radio that Tim Cook said Apple is going to be  
24 carbon neutral in the next decade. Well, we can all make  
25 the choice to then, you know, support Apple if we choose --

1 right? -- because that's a consumer and market reaction to  
2 I think a lot of people's concern about the environment.

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

8 REPRESENTATIVE METZGAR: So considering---

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

17 REPRESENTATIVE METZGAR: Sure.

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

23 But whenever you consider some of the other, you  
24 said about market forces at play. You know, during the  
25 Obama era, we saw forced retirements of a number of

1 coal-fired generation facilities during that period of  
2 time. Now we see some retirements and more impending  
3 retirements of some of our nuclear facilities. We have  
4 seen more natural gas come on board, largely driven by what  
5 you said before, the low cost, the \$3 per MCF cost  
6 essentially at this point for natural gas.

7 But my question to you is, looking in the future  
8 with RGGI as the backdrop, if we continue to have nuclear  
9 retirements, RGGI forces more coal-fired retirements, and  
10 let's presume that natural gas goes back to 2008 levels of  
11 \$12 per thousand cubic foot, what does that do to the  
12 Commonwealth, the PJM grid, and I think you mentioned some  
13 of our most vulnerable individuals that are the  
14 impoverished? So can you explain to me what your vision of  
15 that, you know, maybe very real and realistic scenario  
16 under RGGI would be.

17 MS. KLINGENSMITH: Yeah.

18 Look, an article this morning from PennLive:  
19 "More financial assistance may be on the way for  
20 Pennsylvanians struggling to pay utility bills." I also  
21 came across just late last month an LA Times article  
22 entitled "California's clean energy programs are mainly  
23 benefiting the rich..." and it looked at LA County via a  
24 UCLA study. And I just want to read just two paragraphs  
25 from that article:

1           "Consider the city of Maywood, which is  
2           98% Latino and has a median household income  
3           just under \$40,000. In 2016, Maywood residents  
4           used less than one-tenth as much electricity,  
5           on average, as residents of Beverly Hills'  
6           famous 90210 ZIP code.

7  
8           "Some low-income families often can't afford to  
9           use enough energy to stay warm or cool. As a  
10          result, they 'continue to live in less  
11          comfortable housing and pay a larger proportion  
12          of their income for that discomfort,'..."

13  
14          This is certainly going to be the trend here. We  
15          are not insulated from that same, that same, you know, that  
16          same fate.

17          We have been leading. I think we should all be  
18          proud that the U.S. has been leading in reducing CO2  
19          emissions and becoming more efficient. I think we're at  
20          15 percent of the world's emissions, and we're trending to  
21          10 percent within the next decade. So I simply don't think  
22          that anyone can really lecture us on our commitment to  
23          environmental quality.

24                 MAJORITY CHAIRMAN METCALFE: Representative  
25          Krueger.

1 REPRESENTATIVE KRUEGER: Thank you, Mr. Chairman.

2 Thank you so much for testifying here today.

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

10 MS. KLINGENSMITH: Yes.

11 REPRESENTATIVE KRUEGER: So Americans---

12 MS. KLINGENSMITH: Pennsylvania. Americans for  
13 Prosperity - Pennsylvania. Yeah.

14 REPRESENTATIVE KRUEGER: And Americans for  
15 Prosperity at the national level was founded by David and  
16 Charles Koch, was it not?

17 MS. KLINGENSMITH: They are founding members,  
18 yes.

19 REPRESENTATIVE KRUEGER: And your organization  
20 has fought back on cap and trade. You fought collective  
21 bargaining rights. In fact, I was at a hearing for another  
22 committee at the beginning of this session where you were  
23 fighting back against organizing rights for public-sector  
24 unions. So I find it questionable to have you say that  
25 you represent the taxpayers, the grassroots and labor



1 today, given the fact that you're from Americans for  
2 Prosperity.

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

7 REPRESENTATIVE KRUEGER: But that's not actually  
8 what she said, Mr. Chairman.

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

12 MS. KLINGENSMITH: I---

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

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

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

22 Thank you, Mr. Chairman.

23 MAJORITY CHAIRMAN METCALFE: I really appreciate  
24 that.

25 Representative Dush.

1 REPRESENTATIVE DUSH: Thank you, Mr. Chairman.

2 Two testifiers ago, the previous questioner asked  
3 about what are the businesses doing for their people, and I  
4 can tell you Cliff Forrest and others, when back in 2014 to  
5 2016 when the immediate impacts of what the previous  
6 President was doing, those guys were taking care of their  
7 people, and they were taking care of their communities as  
8 well.

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

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

19 MS. KLINGENSMITH: Yes. It's---

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

25 MS. KLINGENSMITH: Well, happy to send some

1 additional sources and citations on that front. But, you  
2 know, I talked about leakage. I have talked about it in my  
3 post-testimony comments, and I simply think that it is a  
4 fallacy for us to believe that emissions not coming from  
5 the Commonwealth of Pennsylvania but coming from even  
6 another Commonwealth, arguably, in this country is doing  
7 any real impact and having any objected, stated objective  
8 of this program. I think, you know, we're all fooling  
9 ourselves.

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

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

22           REPRESENTATIVE DUSH: Thank you.

23           MAJORITY CHAIRMAN METCALFE: We have one final  
24 question, as long as he can ask it without hollering at  
25 you. Representative Vitali.

1                   MINORITY CHAIRMAN VITALI: Thank you,  
2 Mr. Chairman.

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

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

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

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

25                  MINORITY CHAIRMAN VITALI: So you're suggesting

1 we do nothing?

2 MS. KLINGENSMITH: I'm not suggesting we do  
3 nothing. I am a consumer---

4 MINORITY CHAIRMAN VITALI: What are you  
5 suggesting we do?

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

9 MINORITY CHAIRMAN VITALI: What's your policy---

10 MAJORITY CHAIRMAN METCALFE: Representative  
11 Vitali, you've done this repeatedly. Please let this  
12 testifier answer the question.

13 MINORITY CHAIRMAN VITALI: That's what I'm  
14 listening. I'm listening for the answer.

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

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

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

22 MINORITY CHAIRMAN VITALI: Okay. I'll listen to  
23 the answer.

24 MAJORITY CHAIRMAN METCALFE: Let the testifier  
25 answer the question.

1           MINORITY CHAIRMAN VITALI: I'll listen. I'll  
2 just listen to the answer then.

3           MAJORITY CHAIRMAN METCALFE: That would be good.  
4 Thank you.

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

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

11          MS. KLINGENSMITH: Yeah.

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

18                 We talked about carbon capture. I don't think  
19 we're quite there yet for that to be the lone solution, but  
20 I think there's, you know, free people are capable of  
21 extraordinary things. We see innovators, we see  
22 researchers every day on the front lines trying to think of  
23 ways to be better stewards and actually implement better  
24 ways and processes, standard operating procedures, to be  
25 better stewards of the environment. I have yet to meet

1 someone that is just totally callous about some of those  
2 effects.

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

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

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

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

14 We thank you, Ashley, for your testimony today.

15 MS. KLINGENSMITH: Yeah.

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

24 And it's just mind-boggling to sit here today and  
25 to recognize the other side on this issue while our

1 constituencies, our citizens across the country, are  
2 battling this virus that was unleashed on us by China, and  
3 now China building along with those other four countries  
4 and China building a majority of 900 coal-fired plants with  
5 no concern for the carbon that they are going to emit into  
6 the environment, but we're supposed to try and make up,  
7 even though we're not able to, for China's attack on the  
8 environment and their attack on our citizens through this  
9 Chinese virus.

10           It's just mind-boggling that Americans aren't  
11 more unified in recognizing the threat from China and that  
12 this once again is another win for China if we move away  
13 from being one of the largest energy producers in this  
14 country, which we need to maintain. And hopefully we'll be  
15 able to defeat Wolf in this endeavor a little bit faster  
16 than we have with his trying to shut down our economy in  
17 Pennsylvania, like he has been successful at the last  
18 4 months in so many ways.

19           Thank you.

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

22           The PUC Chair just said there are at risk of  
23 default or termination, as bills grow, 800,000 households  
24 in Pennsylvania when this moratorium ends on all of their,  
25 you know, companies under their purview -- 55,000



1 businesses. To think about adding an additional burden I  
2 think would be nothing short of irresponsible.

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

6 Our next and last testifier for today is  
7 Mr. Anthony Holtzman, Esquire, partner at K&L Gates LLP.

8 Thank you for sticking with us. We're a little  
9 longer than scheduled today, but there wasn't a lot going  
10 on at the Capitol today in the way of a need for this room,  
11 so I figured we were safe with playing through the earlier  
12 questions, and I appreciate you being able to stay with us.

13 MR. HOLTZMAN: My pleasure.

14 MAJORITY CHAIRMAN METCALFE: Thanks for joining  
15 us, sir.

16 MR. HOLTZMAN: My pleasure.

17 MAJORITY CHAIRMAN METCALFE: You can begin when  
18 you're ready.

19 MR. HOLTZMAN: Good afternoon, Chairman Metcalfe  
20 and Chairman Vitali and the other Members of this  
21 Committee.

22 As you said, my name is Anthony Holtzman. I am  
23 very pleased to join you today to discuss certain  
24 constitutional and statutory issues that pertain to RGGI,  
25 and in particular I'm here today to explain why, in my

1 estimation, Pennsylvania's constitutional and statutory law  
2 does not provide the Executive Department with the  
3 authority to join or implement RGGI.

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

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

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

22           In order to formally join RGGI, the Commonwealth  
23 would need to execute the RGGI Memorandum of Understanding  
24 -- it's also known as the MOU -- which operates like a  
25 binding agreement between the signatory States.

1           And Article IV of the Pennsylvania Constitution  
2 is an important section of the Constitution in this regard:  
3 It establishes the powers of the Executive Department, and  
4 notably, it does not contain any provision that supplies  
5 the Governor or any other Executive branch official or  
6 entity with the authority to sign on to an interstate  
7 agreement or compact like RGGI. So it enumerates a variety  
8 of powers that are bestowed upon the Governor and the  
9 Executive, but one of them is not the power to enter into  
10 an interstate compact.

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

24           So because the Pennsylvania Constitution does not  
25 provide the Governor or any other Executive Department

1 official or entity with the power to enter into an  
2 interstate compact or agreement, the General Assembly alone  
3 possesses that power.

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

9           And as a corollary to that point and very apropos  
10 for today's discussion, our Supreme Court has actually  
11 recognized the fact that the Constitution vests this body,  
12 the General Assembly, with the compacting power and that if  
13 a statute wants to delegate that power to the Executive  
14 branch, the delegation must, quote, "evinced the  
15 Legislature's 'basic policy choice' to participate in [the]  
16 interstate agreements," closed quote.

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

23           The two potentially applicable statutes, the ones  
24 that people discuss all the time, are the Air Pollution  
25 Control Act, or APCA, and the Uniform Interstate Air

1 Pollution Agreements Act, or the UIAPAA. That one doesn't  
2 have quite as fluid of an acronym associated with it.

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

15           Section 3 of the other statute, the UIAPAA, for  
16 its part authorizes the Department to enter into what it  
17 calls multistate "administrative agreements" that provide  
18 for things like "cooperation" and "coordination" of  
19 nonbinding efforts to control cross-border air pollution.  
20 And those types of agreements, according to the statute,  
21 can provide for things like "coordinated administration"  
22 of the States different air control programs,  
23 "consultation concerning technical" issues, and the  
24 "development of recommendations" concerning air quality  
25 standards.

1                   The RGGI MOU by contrast is not an  
2 "administrative agreement" of the type that that statute  
3 contemplates. Under the RGGI MOU, as I suspect you're  
4 aware, each signatory State makes a binding commitment to  
5 propose and implement a regional carbon dioxide budget  
6 trading program, which is based on the State's mandatory  
7 participation in a regional, revenue-raising allowance  
8 auction process. So this arrangement stands in stark  
9 contrast to the paradigmatic UIAPAA "administrative  
10 agreement." Those agreements typically, for example, allow  
11 for the sharing of ambient air monitoring data, for  
12 example, between States or the convening of periodic  
13 technical conferences among agency staff members.

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

21                   First in this regard, our Supreme Court as a  
22 legal test has long held that under our Constitution,  
23 the power to impose a tax is vested solely in the  
24 General Assembly, and its test is that under the case law,  
25 something qualifies as a "tax" if it is a

1 "revenue-producing measure." And a regulatory "fee," by  
2 contrast, is merely "intended to cover the cost of  
3 administering a regulatory scheme." And therefore, as  
4 Pennsylvania's courts have explained repetitively, whether  
5 an income-producing mechanism imposes a "tax" on the one  
6 hand, and this is as a legal matter, or a "fee" on the  
7 other, it turns on the volume of income that the mechanism  
8 generates and the proportion of that income that goes  
9 towards covering the program's administrative costs.

10 So under this standard, RGGI's quarterly auction  
11 mechanism, which as I suspect you know is really right at  
12 the heart of this program, would qualify as a "tax" and not  
13 a "fee" as a matter of law, because the proceeds of the  
14 auctions are grossly disproportionate to the costs of  
15 administering the program.

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

1 the money to general funds to bolster State coffers.  
2 Again, only 6 percent of the proceeds have gone towards  
3 administering the RGGI program itself. So the program  
4 imposes a tax, and a tax is something that only the  
5 General Assembly can impose.

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

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



1 kinds of regulations.

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

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

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

24           If you go through the statute, it is devoid of  
25 any clear authorization for any agency to issue regulations

1 that would adopt a detailed "cap-and-trade" system,  
2 including the carbon dioxide allowances regime, that lies  
3 at the very heart of the program that we have been  
4 discussing today. The result is that if a Pennsylvania  
5 agency were to invoke APCA and issue regulations of that  
6 sort, those regulations would be ultra vires and void.

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

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

23           And I would submit that this should be a  
24 bipartisan question. This is an important institutional  
25 issue for the General Assembly: When is it that an

1 administrative agency can do something? It's only when  
2 this body has made the basic policy choice in a clear and  
3 unequivocal fashion and delegated in a clear and  
4 unequivocal fashion authority to the agency to carry out  
5 that basic policy choice. It doesn't matter what stripe  
6 the Governor is. This body should care about that  
7 principle.

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

1 climate change.

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

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

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

25 I would be happy to try to answer your questions

1 about these issues. Thank you.

2 MAJORITY CHAIRMAN METCALFE: Thank you very much,  
3 sir.

4 Our first question is from Representative  
5 Metzgar.

6 REPRESENTATIVE METZGAR: Thank you, Mr. Chair.

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

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

22 So one of the crystallization benefits, if you  
23 will, of a statute or a bill like 2025 if it were to be  
24 enacted into law is that it would help crystallize the  
25 state of the law and avoid that protracted and expensive

1 potential litigation that I think would be fairly likely to  
2 materialize absent the statute.

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

5 REPRESENTATIVE METZGAR: No, that's what I was  
6 looking for.

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

16 MR. HOLTZMAN: Yeah. I think interpreting it in  
17 that fashion would arguably be an unreasonable and  
18 potentially absurd way to interpret it, because there would  
19 be no meaningful purpose for doing that exercise. It  
20 wouldn't impact the effectiveness of the Department of  
21 Environmental Protection's decision to sign on to the  
22 agreement in any way. It would simply be an exercise in  
23 futility. Essentially, the General Assembly would have no  
24 role whatsoever, and that language essentially would be  
25 rendered meaningless in the statute.

1           And, of course, in interpreting statutes, every  
2 word of the statute must be given effect and have some kind  
3 of independent meaning and function. It's not just there  
4 for window dressing, right?

5           So, you know, and "formulate" is another  
6 important point. The statute doesn't say that the  
7 Environmental Protection Agency -- I'm sorry, the  
8 Department of Environmental Protection can enter into, can  
9 execute, can bind the Commonwealth to. It uses the  
10 interesting word "formulate," and this is in contrast, by  
11 the way, to some other statutes which, for example, do  
12 allow other agencies to enter into interstate agreements  
13 and compacts.

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

23           So that's an important word. "Formulate" is an  
24 important word, and it's also important to make sure that  
25 every word in the statute has independent functionality and

1 meaning, that it's not rendered meaningless or  
2 unreasonable.

3 I hope that's helpful.

4 MAJORITY CHAIRMAN METCALFE: Thank you,  
5 Representative Metzgar.

6 Representative Zimmerman.

7 REPRESENTATIVE ZIMMERMAN: Thank you,  
8 Mr. Chairman.

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

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

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

22 REPRESENTATIVE ZIMMERMAN: Sure.

23 MR. HOLTZMAN: So New York, for example, may have  
24 a statutory regime in place that did clearly and  
25 unequivocally delegate to its environmental regulators the



1 authority to enter into an agreement like this, and that  
2 may have been what happened there. So there may have been  
3 one or two States like that. But my understanding is that  
4 most of the other States that are signatory States to RGGI  
5 have independent, stand-alone, clear statutory  
6 authorization to enter into the arrangement.

7 REPRESENTATIVE ZIMMERMAN: Okay. Thanks for  
8 that.

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

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

15 REPRESENTATIVE ZIMMERMAN: Okay. All right.  
16 Thank you.

17 Thank you, Mr. Chairman.

18 MAJORITY CHAIRMAN METCALFE: Thank you.

19 Representative Vitali.

20 MINORITY CHAIRMAN VITALI: Thank you,  
21 Mr. Chairman.

22 Mr. Holtzman, just for your information, if we  
23 were to enact 2025, the result would not be a statute  
24 authorizing RGGI, it would be the death knell for RGGI,  
25 because it's just not going to happen.

1           With regard to your legal arguments, with regard  
2 to, you know, as one lawyer to another, I appreciate that.  
3 But when you have a hearing and you bring in a lawyer who  
4 represents the oil and gas industry and you don't bring in  
5 a lawyer who represents DEP or is supportive of RGGI,  
6 you're going to get a one-sided result.

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

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

21           But my question for you, I mean, because you're  
22 not here, you know, representing the gas industry, and your  
23 kids had a good interaction with you before you came here  
24 today. But when we get to, you know -- so my question is  
25 this: How do, if RGGI is no good, how do we get to carbon

1 neutrality by 2050? And you'll probably be a 70-year-old  
2 man and your kids will be in their 40s, and, you know, what  
3 do you say to your kids if we have done nothing and we're  
4 living in this post-climate dystopia where the world has  
5 really been despoiled? What do you say to your kids? How  
6 do we get to carbon neutrality?

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

11 MAJORITY CHAIRMAN METCALFE: And I agree with  
12 Representative Metzgar.

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

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

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

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

24 MINORITY CHAIRMAN VITALI: Everyone knocks our  
25 solution, but they don't have any solutions----

1 MAJORITY CHAIRMAN METCALFE: Representative  
2 Vitali---

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

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

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

11 MAJORITY CHAIRMAN METCALFE: Thank you,  
12 Representative Vitali.

13 Representative Dush.

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

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

1 involved yet.

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

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

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

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

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

25 MR. HOLTZMAN: That's okay. I'm enjoying it. Go

1 ahead.

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

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

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

21 Now, importantly, under Pennsylvania's  
22 Constitution, instead of having a list of enumerated powers  
23 for the General Assembly to exercise, the rule is that the  
24 General Assembly has plenary power. It has the power over  
25 everything that has not been expressly taken away from it

1 by the Constitution. So the default rule is always that if  
2 the Constitution is otherwise silent on a topic, it's the  
3 General Assembly that possesses the power to regulate on  
4 that particular topic.

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

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

18 REPRESENTATIVE DUSH: Thank you.

19 MR. HOLTZMAN: You're welcome.

20 REPRESENTATIVE DUSH: And just one very short  
21 comment.

22 The APCA clause on presentment, it's kind of  
23 ironic that we are in a situation where the Governor fought  
24 the presentment clause recently and now he's refusing to  
25 present to us.

1 MR. HOLTZMAN: Agreed.

2 MAJORITY CHAIRMAN METCALFE: Thank you,  
3 Representative Dush.

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

7 MR. HOLTZMAN: Yeah. Me, too.

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

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

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

19 As a member of the EQB based on the nature of my  
20 Chairmanship, along with the Minority Chair, and the same  
21 for the Senate Minority and Majority Chairs of their  
22 Environmental Committee, I'm sure we're going to be  
23 battling this out there. It would just be, it would be, as  
24 I sat here listening to your testimony, I would hope that  
25 the individual Members, who are mostly appointees of the



1 Governor, would have enough integrity to weigh the  
2 seriousness of what action they would take as it relates to  
3 the oath that so many of us have taken to defend and uphold  
4 the Constitutions of our State and nation.

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

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

8 MAJORITY CHAIRMAN METCALFE: In everybody's  
9 packet today, we have a report. There was a hearing that  
10 was held recently in western Pennsylvania, I think with the  
11 Republican Policy Committee and the Oil and Gas Caucus, and  
12 the U.S. Department of Energy personnel from that  
13 department presented *The Appalachian Energy and*  
14 *Petrochemical Renaissance* report here, that they have  
15 *An Examination of Economic Progress and Opportunities*. And  
16 as I looked at it, I thought this would be beneficial for  
17 all of our Members to have a copy of, because it  
18 specifically addresses the scenario that we're in right now  
19 with the economic fallout of the coronavirus, the Chinese  
20 virus, and the resulting response of Governors like Wolf  
21 who have overreached through the process and what damage  
22 that has done and what hope the energy industry actually  
23 helps us to have for job creation and economic  
24 opportunities for our citizens moving forward out of the  
25 wake of what we have been dealing with also.

1           And some things were mentioned related to other  
2 hearings and other positions, particularly the position of  
3 the Governor and his DEP Secretary. First of all, today,  
4 this is a continuation of work that we have been doing on  
5 the RGGI issue since the Governor had put forward this  
6 initiative that he wanted to join this without -- as he  
7 moved forward, it got more and more evident that he wanted  
8 to move forward without our interaction as a legislative  
9 body other than being informed about it and having  
10 opportunities to discuss what he was planning on doing with  
11 or without our approval.

12           So we have had a number of meetings. We did move  
13 2025, as was mentioned, and I think from what was testified  
14 to and from Representative Metzgar's question, I would  
15 concur that that act would only crystallize the power that  
16 we already have and the position that we should already be  
17 taking, as was mentioned, as an institution. This is the  
18 power of the General Assembly to make this type of  
19 decision, and nobody should cede that power to the  
20 Executive when we have been entrusted with it by the people  
21 under our Constitution.

22           Now, on September 19<sup>th</sup> in 2019, we held an  
23 informational meeting with Secretary McDonnell, and he  
24 presented related to climate change, he also specifically  
25 spoke about RGGI, and he also mentioned some of the other

1 related programs such as the Climate Action Plan and the  
2 Transportation and Climate Initiative that was mentioned,  
3 that we might have something like that by one of our  
4 testifiers earlier, that you could get to the point where  
5 they're going to tax you out of your automobile trying to  
6 force you into an electric car.

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

17           Something that I found alarming was recently, I  
18 had received a letter that I believe all the Members of the  
19 General Assembly received regarding supposed company  
20 support for RGGI, and throughout that, when you start  
21 looking at the companies who signed on to that, there was a  
22 company mentioned as being supporting in that. The company  
23 that DEP contracted with to do the neutral modeling about  
24 the economic environmental impacts of PA joining RGGI is  
25 ICF. ICF signed that letter to the EQB, along with several

1 other clean energy business groups supporting DEP's RGGI  
2 proposal, and encouraging investments of RGGI funds into  
3 energy efficiency and clean energy in Pennsylvania.

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

18           But overall, I think this testimony today that we  
19 have received, you know, we had seen recently that the DEP  
20 lost two votes in an unprecedented manner as far as  
21 anything that we can garner from what has happened in the  
22 past. But on May 19<sup>th</sup>, the Citizens Advisory Council voted  
23 9 to 4 to reject the proposal of RGGI. Then on May 7<sup>th</sup>,  
24 where they needed to have a majority vote, the Air Quality  
25 Technical Advisory Committee, stacked with

1 environmentalists, voted 9 to 9 with one abstention, so  
2 they failed to approve DEP's proposal also.

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

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

22 Today we heard, I thought, a very excellent  
23 argument on why in fact so many of us believe it's illegal  
24 and done in a way that articulated and spelled out details  
25 that many of us, I'm sure, weren't even familiar with. I

1 know I was not as familiar with those details that were  
2 pointed out by the attorney that we just heard critique why  
3 RGGI is not something that the Governor can move ahead on  
4 without legislative approval.

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

15           Thank you all for joining today.

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

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

22  
23           (At 3:23 p.m., the public hearing adjourned.)

1                   I hereby certify that the foregoing proceedings  
2 are a true and accurate transcription produced from audio  
3 on the said proceedings and that this is a correct  
4 transcript of the same.

5  
6  
7                   \_\_\_\_\_  
8                   *Debra B. Miller*

9                   *Transcriptionist*

10                  [dbmreporting@msn.com](mailto:dbmreporting@msn.com)