

Eugene M. Trisko
Attorney at Law
P.O. Box 596
Berkeley Springs, WV 25411
(304) 258-1977
(304) 258-3927 (fax)
emtrisko@intrepid.net

Statement on behalf of
United Mine Workers of America
Before the
Committee on Environment and Public Works
United States Senate
April 8, 2003

Mr. Chairman and members of the Committee:

I am Eugene M. Trisko, an attorney in the District of Columbia. I am pleased to be here today to testify on behalf of the United Mine Workers of America (UMWA), the labor union representing the nation's organized coal miners. I have worked with the UMWA for some 20 years on issues related to the Clean Air Act and global climate change, including the development and implementation of the Clean Air Act Amendments of 1990, the Byrd-Hagel climate resolution, and the proposed Clear Skies Act.

The UMWA supports additional reductions in sulfur dioxide (SO₂), nitrogen oxides (NO_x) and mercury from coal-fired power plants, provided that the reductions are achieved in a way that preserves coal miners' jobs. UMWA members mine, process and transport coal in their daily jobs. Their economic interests are entwined with energy and environmental issues in a very direct manner.

Since 1990, the UMWA has lost thousands of coal mining jobs as a consequence of fuel-switching in response to the acid rain provisions of Title IV. Coal production in major eastern coal producing states declined by more than 113 million annual tons between 1990 and 2000, while more than 30,000 coal mining jobs were lost. Most of these reductions and job losses were the result of switching from higher- to lower-sulfur coals to meet the emission reductions required by Title IV. Dozens of mining communities have all but ceased to exist across economically-depressed Appalachia and the rural Midwest. The union is understandably sensitive to the risk of additional job losses through new multi-emission legislation.

For these reasons, the UMWA appreciates the concerns that the Administration has expressed toward its members' interests in the development of the proposed Clear Skies Act, and is gratified that the proposal reflects UMWA's suggestions about the need for incentives to encourage the early installation of control technologies. Our statement today is intended to point out some remaining concerns about the design of multi-emission legislation.

Background: The Role of Coal in America's Energy Supply

Coal is an indispensable part of America's energy supply. The U.S. has a demonstrated coal reserve base of over 500 billion tons, with an estimated 275 billion tons of recoverable reserves. At current production rates, this represents about 275 years of recoverable reserves.

Coal represents some 95% of all U.S. fossil fuel energy reserves. About one-quarter of global known coal reserves are found in the United States. U.S. recoverable coal reserves have the energy equivalent of about one trillion barrels of oil, an amount comparable to the world's known oil reserves.

More than one-half of our nation's electricity is generated by coal. To back coal out of our energy supply mix means that we would have to find another fuel to replace it, most likely natural gas. Such a fundamental shift in U.S. energy policy would bring into question not only the cost but also the availability of natural gas supplies. Substantial increases in demand for natural gas inevitably would lead to higher costs and greater dependence on foreign sources for supply. At the margin, our gas supplies are imported from Canada and other sources in the form of LNG.

Natural gas futures prices now exceed \$4 per million BTU at the wellhead, and persist at that level for contract purchases several years into the future. Gas prices exceeded \$10 per million BTU in many markets this winter. Environmental policies that drive electric utilities away from coal – which costs about \$1 per million BTU at the mine - and toward natural gas conflict with our energy policy goals of maintaining a reliable, low-cost mix of generating sources.

The UMWA also recognizes that Americans demand a cleaner environment at the same time they demand low-cost, reliable and available energy. For coal to continue to play the vital role that it can and should play in our energy mix, we must ensure that coal is consumed with minimum emissions consistent with the use of available technologies. The United States must continue to develop highly advanced technologies to convert coal to a cleaner and more efficient form of energy.

The UMWA Supports a Three-Pollutant Approach

The UMWA supports in principle the emission reduction tonnage targets contained in the proposed Clear Skies Act. The UMWA has some suggested changes intended to improve the environmental effectiveness of the proposal, while reducing the risk of large-scale, disruptive fuel-switching.

The union consulted with the Administration during the development of the Clear Skies Act. UMWA engaged this issue in August 2001 in response to the release of EPA's initial "strawman" proposal, calling for, *inter alia*, a 2.0 million ton cap on sulfur dioxide emissions to be achieved by 2010. Through a process of inter-agency negotiations, that proposal was modified to a two-phase program with a 3.0 million ton final cap. The UMWA supported the 3.0 million ton final cap, but argued for a single-phase program.

The positions that UMWA has taken on the Clear Skies Act can be summarized as follows:

- 1) A single phase approach to reducing SO₂ emissions can be developed in a manner that reduces the risk of fuel-switching by encouraging extensive use of available emission control technologies, thereby maximizing the "co-benefits" of mercury reductions;
- 2) Two-phase proposals for SO₂ control may encourage fuel-switching and resulting job losses, while reducing the use of control technologies that also achieve mercury reductions;
- 3) A 2.0 million ton cap on SO₂ emissions is excessively stringent and could lead to the shut-down of smaller units forced to install emission controls;
- 4) Differentiating NO_x control requirements between eastern and western states makes sense in light of OTAG modeling results showing the minor contribution of western NO_x emissions to ozone affecting eastern states; and
- 5) An initial target for mercury reductions should be set based on expected "co-benefit" reductions from a single-phase SO₂/NO_x control program, with a subsequent target based on the results of these reductions, and advances in available mercury control technologies.

In November 2001, UMWA President Cecil E. Roberts testified before this Committee:

“An SO₂ and NO_x control plan along these lines could be implemented as a first step in a longer-range plan to reduce mercury emissions. The experience in mercury "co-benefits" achieved by the first phase controls for SO₂ and NO_x emissions would be vital in assessing the feasibility of ultimate mercury reduction targets. In light of this, the committee may want to consider early reduction allowances for SO₂ controls that also reduce mercury emissions on the theory that such reductions are more valuable than those strategies that only reduce SO₂ alone. There is precedent for such extra credit in Title IV of the 1990 Amendments, which allocated 2:1 bonus allowances to utilities that chose to install control technology.”

With this background, the UMWA respectfully requests the Committee to consider constraining the eastern SO₂ reductions called for by the Clear Skies Act to a single phase control program with a reasonable final deadline, perhaps similar to the 10-year deadline provided by the Title IV SO₂ control program.

A single-phase SO₂ program would serve to maximize the use of emission control technologies such as flue gas scrubbers that also reduce mercury. More important, emission reductions would be achieved in time to assist states in attaining the new PM_{2.5} standard. A longer-term, two-phase program may not deliver sufficient reductions in time for states to demonstrate attainment by the expected 2015 attainment deadline.

Because NO_x controls tend to be added incrementally, from low-NO_x burners to selective catalytic reduction, there is less need for a single-phase NO_x control program. The targets and timetables for NO_x reductions also may take into account the longer-term attainment schedule for the 8-hour ozone standard that EPA is developing, modeled on the 17-year schedule that Congress approved for the 1-hour ozone standard.

Eliminate Allowance Auctions

The UMWA urges elimination of the emission auction provisions of the Clear Skies Act. Requiring sources both to reduce emissions and to pay for auctioned allowances is a form of double taxation whose rates rise in relation to the sulfur content of coal. Auction “tax rates” would be highest in West Virginia, Pennsylvania, Ohio, Kentucky, Indiana, Illinois and other states producing higher-sulfur coals. Over time, this new energy tax would create a major disincentive to the use of coal reserves in these states.

Avoid Entanglement with Climate Issues!

The UMWA does not support reduction schemes that force or encourage electric utilities to switch away from coal, thereby causing economic harm to coal miners and their communities. UMWA is particularly concerned that efforts to craft new multi-emission control legislation should remain focused – as the Clear Skies Act is - on reducing the air pollutants contributing to air quality problems such as nonattainment with EPA’s new 8-hour ozone and PM2.5 standards.

The union is strongly opposed to efforts to use the Clean Air Act as a vehicle for regulating greenhouse gas emissions.

Regulating greenhouse gases under the air quality framework of the Clean Air Act is not feasible. It is not possible to set enforceable limits on domestic atmospheric concentrations of greenhouse gases generated and transported globally. Carbon dioxide, the principal greenhouse gas, is not harmful to human health and could not properly be classified as a “criteria” air pollutant.

There are no commercially-available means to reduce carbon emissions from the electric generation sector. Limits on carbon emissions would require switching from coal to natural gas or other higher-cost energy sources, with potentially devastating impacts on the economies of coal-producing states.

The Kyoto Protocol exempts rapidly-growing developing nations from limits on greenhouse gas emissions, and unilateral actions by the United States to reduce carbon emissions would have no measurable impact on future concentrations of greenhouse gases. Global greenhouse gas concentrations are projected to increase into the foreseeable future, irrespective of ratification and implementation of the Kyoto Protocol. These increases will be driven predominately by the economic growth of developing nations.

The UN Framework Convention on Climate Change calls for the United States and other parties to establish global atmospheric greenhouse concentration targets to prevent “dangerous” anthropogenic interference with climate. To date, the UN FCCC process has failed to engage this debate. Indeed, the FCCC’s “second review of adequacy of commitments” has been stalled since November 1998 when China and other developing nations refused to discuss the adequacy of developing country commitments. In Kyoto, developing countries staged a six-hour filibuster against the U.S. “evolution” proposal, calling for subsequent negotiation of developing country commitments. These subsequent negotiations were contingent upon full and complete

performance of all Annex I country obligations under the Kyoto Protocol.

The deficiencies of the Kyoto Protocol and the UN FCCC process should be resolved through multilateral negotiations involving developed and developing countries, potentially leading to a new global agreement on greenhouse gases that recognizes the “common but differentiated” responsibilities of parties to the FCCC, with an equitable apportionment of emission limitation targets among all parties.

The UMWA’s concerns about including greenhouse gas emission restrictions within domestic Clean Air legislation are shared by other labor unions. On October 24, 2001, the presidents of seven labor unions conveyed their views on this issue to this Committee. A copy of their letter is attached to this statement.

Need to Consider Financial Impacts

The failure of many state utility restructuring efforts and other economic forces have degraded the financial health of the electric utility industry. The industry is littered with companies in or teetering on the edge of bankruptcy. Credit downgrades are daily news.

The multi-billion dollar annual cost associated with new emission control legislation raises questions about the ability of the utility industry to raise needed debt and equity capital. In many states, it is no longer possible to simply pass through the costs of new emission controls to utility ratepayers.

Under these circumstances, UMWA recommends that the Committee consult with the Congressional Research Service or the General Accounting Office on the financial implications of proposed emission control legislation. Both the tonnage reductions and the timetables for compliance should reflect sound financial and economic assumptions about the ability of the industry to comply.

UMWA appreciates the opportunity to share its views on the proposed Clear Skies Act with the Committee, and looks forward to the opportunity for further input to the development of multi-emission legislation as your deliberations proceed.

Thank you.