




**National Rural Electric
Cooperative Association**

A Touchstone Energy® Cooperative 

Glenn English
Chief Executive Officer

November 2, 2009

The Honorable Barbara Boxer
Chair
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Chairman Boxer:

America's 930 consumer-owned electric cooperatives have pledged to work with the Senate to develop and pass legislation to address the nation's climate change objectives. More than 600,000 electric cooperative consumer-members have asked their senators to ensure that climate change legislation is fair, affordable and technologically achievable. Our members support wise investments that diversify the nation's energy portfolio and make America more energy efficient and independent. But they are also concerned about the impact of greenhouse gas emission reductions on the cost of energy and their ability to pay higher electric bills.

To assist the Senate in crafting climate change legislation that will both achieve greenhouse gas reductions and protect consumers from unnecessary costs, NRECA previously identified major structural elements that cooperatives consider essential to a carbon mitigation program (see attachment). We believe that our recommendations to the Senate Environment and Public Works Committee will help to create an affordable, workable, and technologically achievable program. We believe the Senate must produce a piece of legislation that is a substantial improvement over the House-passed legislation and is better suited to regulating greenhouse gases than the current Clean Air Act.

Unfortunately, the latest version of S. 1733, the "Clean Energy Jobs and American Power Act," released October 24th, does not adequately address electric cooperatives' concerns. Rather than improving upon the legislation passed by the House, the current Senate draft is a step backward in several key areas. Unless many of these issues are improved, NRECA will urge Senators on the Committee to oppose the bill.

We are grateful for the efforts of Senators Baucus, Klobuchar, and Udall to make improvements to the bill. However, the specific major elements outlined below fall far short of producing an affordable, fair, achievable program:

- **Unachievable emission caps and timelines.** S. 1733's target of a 20 percent reduction in greenhouse gas emissions by 2020 is far too aggressive and a step in the wrong direction from the House bill's target of a 17 percent reduction. The Senate bill leaves insufficient time to commercialize and deploy the technologies we need. With few technology choices available to reduce our greenhouse gas emissions on this scale and in this timeframe, electric cooperatives would need to switch from coal to natural gas to comply with the caps in the bill, at substantial cost to our consumers. In addition, a start date of 2012 is unrealistic at best. Federal agencies, state governments, and other entities that need to establish regulations and program oversight will not be able to implement those regulations and programs by the time the bill becomes effective in 2012. A rushed start date and emission reduction targets and timetables that are too aggressive make this cap-and-trade program unaffordable, unworkable, and technologically unachievable.
- **Lack of protection for all electricity consumers equally.** S. 1733 retains the fundamentally unfair 50-50 formula from the House bill for allocating allowances to electric utilities. This allocation formula rewards companies with fewer CO₂ emissions and leaves more coal-dependent utilities with significant allowance shortfalls. The result is a double cost to our consumers: (1) the cost of allowances (which will do nothing to reduce emissions) and (2) the cost of the new energy sources to actually reduce emissions. The 50-50 formula may be a fine formula for protecting the profitability of for-profit utilities with varying fuel mixes. However, we believe these provisions should be about making the bill affordable for all consumers equally, not protecting the profitability of companies. In addition, the bill allocates allowances to unregulated merchant coal generators, diluting those available to local distribution companies (LDCs) to protect consumers. Allowances for the utility sector should be distributed to local distribution companies based on emissions for the duration of the cap-and-trade program.

The bill also reduces the number of allowances provided to protect electricity consumers, including cooperative consumers. Rather than providing 40 percent of the allowances to electricity LDCs to protect consumers as utility, regulatory, and consumer groups have recommended, the bill only provides about 25 percent of the total allowances to LDCs, after accounting for the allowances taken "off the top." This is another step backward from the 30 percent provided to LDCs in the House bill.

We must acknowledge several Senators on the Committee, including Senators Baucus, Klobuchar, and Udall, for their efforts to improve the bill for electric cooperatives, specifically by securing some additional allowances for electric cooperative consumers. We appreciate their efforts. However, based on the net impact of the changes to the allowance allocation provisions, electric cooperative consumers will

receive far fewer allowances under the Senate draft as compared to the House-passed bill. Preliminary estimates indicate that co-ops will receive approximately 20 million fewer allowances in just the first year of the program, even with the additional allowances secured by Senators Baucus, Klobuchar, and Udall. However, we must conclude that such a significant reduction in allowances is not an improvement over the House-passed bill, and the bottom line impact on our consumers makes this another step in the wrong direction.

- **Inadequate cost containment measures to promote economic sustainability.** The Kerry-Boxer bill contains a “Market Stability Fund” that is similar to the Strategic Reserve Fund contained in the House-passed bill. This is an area where the Senate bill has made some marginal improvements over the House bill, specifically by changing the method of determining the minimum price for reserve allowances. However, it lacks a clear upper limit on the cost of emission allowances. Cost certainty is critical to the long-term success a greenhouse gas cap-and-trade program as covered sectors transform to low-carbon energy sources. The legislation should include a strong cost containment mechanism that guarantees prices will not rise above a certain level, such as a safety valve or “hard” price collar.
- **Uncertain and unworkable offset credits.** S. 1733 allows up to 2 billion offsets annually, with caps on how many offsets an individual covered entity can use for compliance. The bill is more favorable to domestic offsets in some respects – shifting the initial ratio of domestic to international offsets from 1:1 in House legislation to 3:1. But it includes provisions which may reduce the utility of offsets. It would delay the establishment of an offset program – and thus its value in controlling the costs of the cap-and-trade program – by failing to assign the lead agency or agencies for domestic and international offset projects, and failing to include an initial list of eligible domestic project types. Cooperatives believe that the U.S. Department of Agriculture is in the best position to work with farmers and landowners on domestic offset projects. In addition, it is not necessary to cap the use of offsets by covered entities, as the size of the domestic and international offset programs will be limited by the available verified, cost-effective offsets.
- **Multiple, overlapping regulatory programs.** Previous versions of the bill neglected to pre-empt any current Clean Air Act provisions or other laws that could be used to regulate CO₂ emissions. We recognize that the most recent version now includes provisions to limit the use of existing law to address climate change. The inclusion of those provisions is an improvement over previous drafts. However, it would be far preferable to provide the certainty required to include language in the bill that indicates the new law provides the sole legal and regulatory authority that can be used to require reductions of greenhouse gas emissions to address climate change.

The Honorable Barbara Boxer

November 2, 2009

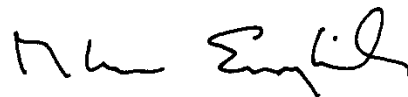
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Additionally, while state programs may be suspended for five years, that scenario is uncertain because the suspension doesn't begin until nine months after EPA first auctions allowances. As we indicated above, we are concerned that this program cannot be implemented by 2012 which would shorten the suspension of redundant\ state programs. As we indicated earlier this year, the global nature of the climate change issue lends itself to federal, not state, action.

- **Inadequate technology development and deployment incentives.** To make greenhouse gas reduction requirements achievable, we will need new, cost-effective technologies to reduce emissions. Carbon capture and sequestration (CCS) is critical to our ability to use abundant, domestic resources like coal to continue to meet our energy needs. Likewise, nuclear power will be critical to addressing growing electricity needs in a carbon-constrained world. This bill contains several incentives necessary to develop CCS technologies, with some provisions that are incremental improvements over the House bill. However, to ensure the timely development of carbon capture and sequestration, regulatory and liability hurdles must also be addressed in the legislation. We also recognize that energy technology development is an area in which multiple committees, including the Finance, Energy and Natural Resources, and Agriculture, Nutrition, and Forestry Committees. We look forward to continuing to work with the Senate to develop the full suite of incentives and programs needed to create a broad array of technology options to meet carbon reduction goals.

On behalf of the nation's rural electric cooperatives, NRECA will continue to work with you, the Environment and Public Works Committee, and other Senators and Committees to develop affordable and workable legislation to address climate change. If the Senate is going to enact climate legislation, it must be an improvement over the House bill, existing Clean Air Act and other statutes or it should not be enacted.

Sincerely,



Glenn English

Attachment

cc: All Members, Senate Committee on Environment and Public Works