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# Congress of the United States

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November 8, 2011

The Honorable Kenneth T. Cuccinelli, II  
Attorney General of Virginia  
Office of the Attorney General  
900 East Main Street  
Richmond, VA 23219

Dear Mr. Attorney General:

Thank you for testifying before the Committee on November 1, 2011, at the hearing entitled "Lights Out II: Should EPA Take a Step Back to Fully Consider Utility MACT's Impact on Job Creation." I am writing to ask that you explain the basis for the claims in your written testimony that the Air Toxics rule will increase electricity prices by up to 35% and result in the loss of 180,000 jobs per year. Your claims appear to contradict reputable studies and analyses that predict only minor increases in electricity prices and net job gains.<sup>1</sup> Even more peculiar is that your claims also appear to exaggerate even the potential negative impacts predicted by industry studies on which you presumably rely.

First, in your written testimony, you stated that, as a result of the Air Toxics rule, "[e]stimates are that [electricity] prices will increase between 10 and 35 percent." You did not provide the estimates on which you based your testimony or any citations supporting your assertion. My staff identified a report issued by American Electric Power in June 2011 that uses the exact same percentages for potential electricity price increases. This report, however, did not examine the Air Toxics rule alone. Instead, it examined the estimated cumulative effects of five

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<sup>1</sup> See, e.g., Environmental Protection Agency, *Regulatory Impact Analysis of the Proposed Toxics Rule: Final Report* (Mar. 2011) (online at [www.epa.gov/ttn/ecas/regdata/RIAs/ToxicsRuleRIA.pdf](http://www.epa.gov/ttn/ecas/regdata/RIAs/ToxicsRuleRIA.pdf)); Political Economy Research Institute, *New Jobs—Cleaner Air: Employment Effects Under Planned Changes to the EPA's Air Pollution Rules* (Feb. 2011) (online at [www.peri.umass.edu/236/hash/cf02bdc58d7e2a55b587c753e86c3881/publication/440/](http://www.peri.umass.edu/236/hash/cf02bdc58d7e2a55b587c753e86c3881/publication/440/)); Economic Policy Institute, *A Lifesaver, Not a Job Killer: EPA's Proposed "Air Toxics Rule" is No Threat to Job Growth* (June 14, 2011) (online at [w3.epi-data.org/temp2011/BriefingPaper312%20%282%29.pdf](http://w3.epi-data.org/temp2011/BriefingPaper312%20%282%29.pdf)); Charles J. Cicchetti, *Why EPA's Mercury and Air Toxics Rule is Good for the Economy and America's Workforce* (July 2011) (online at [www.cleanair.org/sites/default/files/MercuryRuleEconomicsReport\\_1.pdf](http://www.cleanair.org/sites/default/files/MercuryRuleEconomicsReport_1.pdf)).

different environmental regulations and claimed that all of them—taken together—could result in price increases up to 35 percent.<sup>2</sup>

Second, in your written testimony, you stated that, as a result of the Air Toxics rule, “there are estimates of 180,000 jobs lost per year for each year between 2013 and 2020.” Again, you did not provide the estimates to which you referred or the sources for these numbers. My staff identified a report issued in September 2011 by NERA Economic Consulting on behalf of the American Coalition for Clean Coal Electricity that estimates that employment could be reduced by over 183,000 jobs per year over the period from 2012 to 2020. Unfortunately, this study also makes clear that it did not examine the Air Toxics rule alone. Instead, it reviewed the potential combined impact of four different proposals.<sup>3</sup>

Congress relies on the accuracy of data presented in official testimony to make effective policy determinations. If your testimony improperly exaggerated the potential negative effects of the Air Toxics rule, even as predicted by industry sources, it is important that you correct it as soon as possible. In addition, I request that you provide the Committee with all studies, reports, and analyses on which you relied when preparing your testimony before the Committee. I request that you provide this information by November 18, 2011.

If you have any questions about this request, please contact Claire Coleman at (202) 225-5051. I appreciate your cooperation with this matter.

Sincerely,

  
Elijah E. Cummings  
Ranking Member

cc: The Honorable Darrell E. Issa, Chairman  
Committee on Oversight and Government Reform

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<sup>2</sup> American Electric Power, *Environmental Compliance and Impacts* (June 2011) (online at [www.aep.com/investors/present/documents/EnvironmentalCompliancePlan.pdf](http://www.aep.com/investors/present/documents/EnvironmentalCompliancePlan.pdf)).

<sup>3</sup> NERA Economic Consulting, *Potential Impacts of EPA Air, Coal Combustion Residuals, and Cooling Water Regulations* (Sept. 2011) (online at [www.globalwarming.org/wp-content/uploads/2011/09/NERA\\_Four\\_Rule\\_Report\\_Sept\\_21.pdf](http://www.globalwarming.org/wp-content/uploads/2011/09/NERA_Four_Rule_Report_Sept_21.pdf)).