

Testimony Before the House Energy & Commerce Committee

Subcommittee on Environment and the Economy

“Environmental Regulations, the Economy, and Jobs” - – February 15, 2011

Good afternoon. My name is Leonard Hopkins, and I serve as the Fuel & Compliance Manager for Southern Illinois Power Cooperative. I am honored to have the privilege to appear before you today. Southern Illinois Power is a Generation and Transmission Cooperative serving approximately two hundred fifty thousand (250,000) people and businesses located in the southernmost twenty-two counties of Illinois. We are a not-for-profit corporation and are owned directly by our members. SIPC operates one power generation station south of Marion, Illinois which utilizes two coal-fired boilers to generate power for its members. When each of these boilers was built, they were equipped with the state-of-the-art pollution control equipment that would allow them to burn Illinois bituminous coal and meet all environmental regulations. We continue to comply with such regulations today.

The proposed coal combustion residue regulation being proposed by EPA poses a serious threat to the economic survival of the cooperative for which I work. While my comments will focus on the effects EPA's decision could have on Southern Illinois Power, I believe these comments also reflect the sentiments of many of our nation's electric cooperatives.

Southern Illinois Power Cooperative has been utilizing its coal combustion byproducts in beneficial ways for over twenty years. Roof shingle sand, abrasive products, mine reclamation, cement, and fertilizer blends are all examples of ways our coal combustion residues are recycled into beneficial products for society. Southern Illinois Power is concerned that placing the label of “hazardous” on coal combustion residue will place the same stigma on **ALL** coal combustion byproducts, and effectively end the possibility of recycling such materials. In the litigious society of today, manufacturers and end users will flee from any recycled

product that is remotely related to a hazardous waste. Such an action would remove these recycled products from the market place, and the recovery of replacement materials would require increased emissions of carbon dioxide and other pollutants. Further, small, virtually unavoidable spills of ash at power plants could be considered illegal disposal of a hazardous material and could cause the plant to be in a constant state of non-compliance. Shipments to hazardous waste landfills in the country could increase tenfold, and such hazardous waste landfills might be completely filled in only two years. The barriers to compliance associated with such an action could conceivably drive coal-fired power generators like Southern Illinois Power out of business.

Southern Illinois Power Cooperative is a small Generation & Transmission System, and defined as a “Small Business” by the U.S. Small Business Administration. By regulation, cooperatives are not allowed to maintain large capital reserves. When the cost of running our business suddenly increases, like it would under a Subtitle C option, we must go directly to our lenders. There is no cash cushion to mitigate these increases, and the cost of the new loans would be shared by each co-op member-owner in the form of higher electricity rates. SIPC conservatively estimates the Subtitle C option would cost its members a minimum of an additional eleven million dollars per year (about 25% of our current annual fuel budget), and we serve an area of the state that has up to 15% unemployment! In cases where small businesses like SIPC are affected, EPA is ***obliged to pursue the least costly approach*** in order to mitigate impacts on facilities that can least afford them. Moreover, Congress made clear in enacting the Bevill Amendment, under which this decision is being made, that EPA should avoid the Subtitle C option if at all possible.

Under the Subtitle D option, EPA can promulgate federal regulations specifically designed for CCR disposal units. These regulations would be directly enforceable by the states (and the public, under RCRA’s citizen suit provision), and violators would be subject to significant civil penalties. EPA would also retain its imminent and substantial endangerment authority to take action against any CCR units that posed a risk to human health or the

environment. The D Prime option would enable EPA to establish an environmentally protective program without crippling CCR beneficial use and imposing unnecessary costs on power plants, threatening jobs and increasing electricity costs.

In conclusion, Southern Illinois Power Cooperative agrees with many others who are already on record as opposing the Subtitle C approach; this list includes a bi-partisan group of 165 House members and 45 U.S. Senators in the 111th Congress , virtually all the states, other federal agencies, municipal and local governments, CCR marketers and beneficial users, unions, and many other third-parties who have maintained that regulating CCRs under RCRA's hazardous waste program is simply regulatory overkill and would cripple the CCR beneficial use industry. We respectfully suggest there is no reason to pursue this approach when the Subtitle D prime option offers the same degree of protection without the attendant risks and burdens of Subtitle C.

Thank you, again, for this opportunity to express the views of a small Cooperative regarding a proposed regulation that will have lasting effects on the lives and livelihoods of its members.