Witness Testimony
Before the
House Committee on Energy and Commerce
Subcommittee on Energy and Power

"American Energy Security and Innovation:
The Role of Regulators and Grid Operators in Meeting
Natural Gas and Electric Coordination Challenges"

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Thank you, Chairman Whitfield, Ranking Member Rush and the members of the subcommittee for the opportunity to testify at today's hearing.

My name is Joshua Epel, and I am the Chairman of the Colorado Public Utilities Commission. Prior to my appointment to the Commission, I was the Chairman of the Colorado Oil and Gas Conservation Commission. The Colorado Public Utilities Commission regulates the Investor Owned Utilities that serve 1.5 million customers in Colorado. These investor owned utilities are vertically integrated, and therefore the issues and constraints we face are different from other States and regions of the Country.

I appreciate the opportunity to share with the panel the unique innovations pioneered by Colorado. Colorado's path towards fuel diversification and extraordinary use of renewable energy began in November of 2004, when Colorado became the first U.S. state to create a renewable energy standard (RES) by ballot initiative. The Renewable Energy Standard has evolved over the years to require utilities to increasingly obtain energy from

renewable resources. This citizen driven effort, which has been enhanced by the Colorado Legislature, reflects Colorado's determination to chart its own energy future.

The Colorado Legislature also set minimum standards for electricity savings through energy efficiency and other forms of demand-side management. Like renewable energy, consumer energy savings help reduce emissions through reductions in fuel combustion for power generation. The Commission has the authority to set energy savings goals for the investor owned utilities above the statutory minimum standards and the flexibility to direct spending on cost-effective efficiency efforts while taking into account the benefits of energy savings, the immediate impacts on customer bills, and longer-term effects on utility sales.

Colorado's third major initiative was the adoption of the Clean Air Clean Jobs Act. The Clean Air Clean Jobs Act was adopted with overwhelming bi-partisan support. The Act pro-actively addresses Regional Haze, ozone 'non-attainment' and the Mercury Air Toxics Rule. What was remarkable about the Clean Air Clean Jobs Act is that it mandated that the Colorado Health Department work cooperatively with the Commission and the 34 stakeholders to develop a plan that achieves both air quality objectives and assures that Colorado ratepayers have reliable electricity at a reasonable cost.

The significance of both the Renewable Energy Standard and the Clean Air Clean Jobs Act cannot be overstated. Colorado has the highest per capita wind resource in the U.S.: 2,100 Megawatts out of a total generation of 14,000 Mw. The plan adopted by the

Commission requires our largest electric utility to retire, fuel-switch, or retrofit approximately 50% of their coal-fired generating capacity. As a result, it is estimated that CO2 emissions in Colorado will be reduced by 30% by 2020 from 2005 levels.

The lynchpin of the Clean Air Clean Jobs Act is the important role that natural gas will play in Colorado's efforts to ensure a diverse source of generation and reduce emissions.. Natural gas is the fuel of choice for generation facilities that will replace the least efficient coal units that are being retired pursuant to the utilities' emission reduction plans, and natural gas will also repower other units that once burned coal. A key element of the Clean Air Clean Jobs Act is the legislation authorized our investor owned utilities to enter into long term gas supply contracts. The ability of our utilities to enter into a ten year contract with a fixed price and annual adjustment or escalation addresses the issue before the Subcommittee: "How to address the Natural Gas and Electric Generation Challenges."

The Colorado Public Utilities Commission completed, just last week, our Electric Resource Plan for Public Service Company of Colorado. The Electric Resource Plan has valuable lessons for this Subcommittee and EPA. First, the projected demand growth in Colorado reflects the sluggish state of our economy, but also the achievements of energy efficiency and conservation to reduce electric demand. Second, we are requiring that all projects proposed to meet the relatively low projected need of about 300 MW in 2018 go through a competitive bidding process that will be reviewed by an Independent Evaluator to guarantee fairness and transparency. And finally, the Commission has established a

process to encourage the cost –effective implementation of innovative technologies to meet some portion of future electric generation.

Colorado has clearly taken bi-partisan steps to achieve a diversified mix of electric generation, which reduces criteria and hazardous pollutants as well as greenhouse gas emissions. These reductions are not being achieved without a cost to our ratepayers. The estimated cost of the Clean Air Clean Jobs Act is $900 million dollars, to be born by our citizens and businesses. Additionally, the Commission will have to authorize significant infrastructure projects to modernize our grid as well as assure the gas distribution system is safe and reliable.

All of these constraints highlight the central tension the Subcommittee is addressing: how to address the rapidly changing regulatory and economic issues facing regulators and electric utilities. As we move to introduce additional natural gas and renewable energy to reduce greenhouse gas emissions from the electric generating system, we need to keep certain facts in mind, and respect the respective statutory obligations of Utility regulators and environmental regulators. Economic regulators and the FERC are required to deliver safe, reliable energy at just and reasonable rates. Environmental regulators are tasked with achieving air quality goals and regulations. To successfully achieve reduced greenhouse gas emissions at a cost that will allow states to thrive economically, statutory changes or a regulatory program must adhere to the following principles:

Greenhouse gas reductions must establish targets that are achievable through a broad spectrum of strategies that can be tailored by a State with a vertically integrated utility, or by a region in an organized market;

The CO2 emission strategies must be technology and fuel agnostic to give Public Utility Commissions and state and regional air agencies maximum flexibility to achieve the reduction requirements. While the New Source Performance Standard for greenhouse gas emissions set a plant standard for CO2, such an approach is not appropriate for existing sources. The Congress and EPA must acknowledge that it is the exclusive province of the Utility Commission or ISOs to determine the mix of strategies to achieve the standards set by the EPA or the Congress.

CO2 emissions are different than criteria or hazardous pollutant emissions. Other pollutants can be reduced with the installation of scrubbers, baghouses and bolt-on emission controls. CO2 can only be reduced through fuel switching, use of renewable energy, upgrading plant or transmission efficiency or implementing energy efficiency programs. Only State or regional Utility Commissions have the expertise and experience with evaluating and authorizing these programs.

This reduction in CO2 emissions in the electric power sector, however, has required an unprecedented degree of cooperation and collaboration among the relevant parties, both at the state and federal level. As stated earlier, our statute in Colorado required our air quality regulator to work collaboratively with the economic regulator, the Commission,

in achieving these goals in a timely and fair manner. NARUC, our national association, has established a more collaborative working relationship with the federal EPA, and more importantly, with our sister agencies in both air quality and state energy offices around the country. We schedule annual meetings, which we call the 3-N meetings (for NARUC, NASEO, and NACAA), where we discuss these difficult issues with the support of federal EPA, and we at NARUC are actively involved in education and outreach efforts to all commissioners and staff on these complex environmental and energy issues.

States, such as Colorado, that have already made significant investments to reduce greenhouse gas emissions must be given credit for their programs. Not crediting the early reductions would be both unfair and penalize economically states that are already incurring costs to reduce emissions.

The Colorado experience illustrates why these principles are essential:

The Clean Air Clean Jobs Act enabled Colorado to meet numerous federal air quality requirements. The program, designed in cooperation with the State Air Agency and 34 interveners, selected a suite of emission controls, fuel switching and plant retirements that examined the entire generation fleet of Public Service Company. If each generation plant were controlled individually, it would have been prohibitively expensive and politically impossible.

By being technology agnostic, Colorado selected the right balance of fuel switching, retirements, retrofits and use of existing coal plants to provide the necessary reductions and keep rates reasonable and the system reliable and safe.

Finally, implementation of the Renewable Energy Standard and the Clean Air Clean Jobs Act is a major investment. If Colorado is not given credit for this investment, it will be penalized unfairly when compared to the States that have not taken early action.

Thank you for the honor of representing Colorado before the subcommittee and I am pleased to answer any questions.