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United States Senate

WASHINGTON, DC 20510-2503

September 4, 2007

The Honorable Joseph I. Lieberman
Chairman
Subcommittee on Private Sector and Consumer Solutions to Global Warming and Wildlife Protection
United States Senate

The Honorable John Warner
Ranking Minority Member
Subcommittee on Private Sector and Consumer Solutions to Global Warming and Wildlife Protection
United States Senate

Dear Senators Lieberman and Warner:

Thank you for the opportunity to comment upon your proposed framework for controlling greenhouse gas emissions. Several elements of the proposal are at odds with your stated goals of avoiding the imposition of hardship on U.S. citizens and preserving robust growth in the U.S. economy. I outline some of the more serious concerns below and look forward to debate on the proposal this Fall.

Preemption

Your proposal would impose hardship on U.S. citizens and threatens robust growth in the U.S. economy because it does not preempt similar conflicting, overlapping or duplicative state and regional carbon control programs. Any economy-wide national carbon cap program will impose fundamental statutory, regulatory, and economic requirements on society. State or regional programs which conflict, overlap, duplicate or add to a federal program will impose severe disruptions if imposed after a federal program. State or regional programs adopted regardless of timing but in addition to a national economy-wide federal program will impose additional burdensome costs. Such costs would force severe economic, manufacturing and supply disruptions hurting dependent workers, their families and consumers. Certainty and predictability necessary to avoid societal disruptions are obtained by imposing a single, unified, and comprehensive program. Congress retains the power of preemption to avoid societal disruptions from multiple programs and has used it in the past on lesser programs to avoid such outcomes. Therefore, avoiding imposing hardship on U.S. citizens and threatening robust growth in the U.S. economy requires Congress preempt state and regional carbon cap programs if it imposes an economy-wide national carbon cap program.

Sequestration Liability Shield

Your proposal would impose hardship on U.S. citizens and threatens robust growth in the U.S. economy because it does not provide legal certainty for carbon sequestration. Storing carbon emissions deep underground, so-called geologic sequestration, is the only strategy capable of permanently storing the massive amounts of carbon emissions from a national economy-wide carbon cap. However, unresolved legal liability for geologic sequestration prevents any permanent underground storage of carbon emissions. Without a means to store carbon emissions, covered entities would face massive costs from the proposal's requirement to purchase and submit to the government carbon allowances for each ton of carbon emissions. Such massive costs would force severe economic, manufacturing and supply disruptions hurting dependent workers, their families and consumers. Merely creating a task force to propose a future liability framework provides no guarantee of adoption of legal certainty. Therefore, avoiding imposing hardship on U.S. citizens and threatening robust growth in the U.S. economy requires adoption of legal certainty for carbon sequestration.

Significant Harm to Economy Standard

Your proposal would impose hardship on U.S. citizens and threatens robust growth in the U.S. economy because it requires significant harm to the economy before triggering cost containment and management measures. The U.S. economy is extremely large, diversified and robust. Workers of certain income or skill level, individual sectors, or regions of the country will feel significant economic harm before the entire U.S. economy is significantly harmed. The proposal requirement to contain costs only in the presence of significant harm to the entire economy will allow for significant harm to millions of workers, families, entire sectors of the economy and multi-state regions of the country.

Additionally, accompanying materials intend cost relief measures only in the case of sustained high prices that indicate a true scarcity of options to meet immediate-term environmental goals. Temporary or seasonal high prices that are not sustained may nevertheless impose hardship on U.S. citizens and threaten robust growth in the U.S. economy. Likewise, limiting use of cost containment measures to when options are unavailable to meet immediate-term environmental goals does not preclude options with costs sufficient to threaten robust growth in the U.S. economy or impose hardship on U.S. citizens. Therefore, avoiding such threats and hardship requires employment of cost containment and management measures during sustained, seasonal or temporary periods of significant harm to entire the economy or workers and consumers of subset income or skill levels, manufacturing or commercial sectors or regions of the country.

Low Income Consumers

Your proposal would impose hardship on U.S. citizens because it fails to protect low-income families and consumers sufficiently. The proposal allocates 10% of the year's National Emission Allowance account to load-serving entities to defray energy-cost impacts. However, the proposal first requires setting aside enough allowances to meet 100% of the needs of rural electric cooperatives. Aid for rural coops is a worthy goal, but that takes higher energy cost relief from the urban and suburban poor and gives it to rural middle- and upper-income consumers in addition to the rural poor. These groups should not be forced to compete against one another.

Once allowances sufficient to meet the needs of rural electric cooperatives are set-aside, the proposal further subverts the needs of low-income consumer suffering with higher energy costs by allowing higher energy cost relief to also go instead to middle-income consumers and energy efficiency programs. Thus, the remaining relief available to address the financial hardship of low-income consumers is limited and uncertain.

Likewise, the proposal's allotment of 4% of the year's allowances to State governments and low-income energy consumers in those states is minimized because the proposal also allows allowances to go to promoting energy efficiency, promoting investment in non-emitting electricity generation technology, encouraging advances in technology to sequester greenhouse gases, avoiding distortions in electricity markets, mitigating obstacles to investment by new entrants in electricity generation markets and energy-intensive manufacturing sectors, addressing local or regional impacts of climate change policy, and mitigating impacts on energy-intensive industries in internationally competitive markets. These are all worthy policy goals, but they serve to limit greatly the number of allowances available to address financial hardship of low-income consumers. Therefore, avoiding hardship on U.S. citizens requires a dedicated meaningful mechanism to relieve the higher energy costs otherwise imposed on low-income consumers by any carbon cap plan.

Carbon Market Efficiency Board

Your proposal would impose hardship on U.S. citizens and threatens robust growth in the U.S. economy because it uses a Carbon Market Efficiency Board to employ cost containment measures. National oversight boards in pursuit of their national policy goals are notoriously conservative and immune to the hardship of workers, consumers, families or individuals. The U.S. Federal Reserve Board, on which the proposal is modeled, is a case in point in how social justice and equity needs are overshadowed by policy concerns, in the Fed's case fighting inflation. An oversight board with an overriding mission to reduce carbon emissions can also be expected to minimize personal and financial hardship in pursuit of its environmental policy goals. Therefore, avoiding hardship on U.S. citizens and threats to robust growth by the U.S. economy requires automatic cost containment measures employed at certain levels, such as a defined price point of carbon allowances.

Allowance Allocations

Your proposal would impose hardship on U.S. citizens and threatens robust growth in the U.S. economy because it allocates allowances arbitrarily across economy sectors and at variance with their emissions and impact on workers, consumers and families. The proposal allocates 20% of allowances in the first years to the electricity sector (dropping to 0% by 2035), 20% to the industry sector and none to the transportation sector. These allocations are arbitrary on their face. They also do not reflect these sectors' contributions to carbon equivalent emissions. According to the Energy Information Agency, the electricity sector emits 40% of the groups' carbon equivalent emissions, the industry sector 28% and the transportation 32% of emissions. While these are general and imprecise breakdowns, they still reflect fundamentally different emissions outputs than the proposal grants in allowances with the electricity sector receiving 50% of needed allowances, the industry sector receiving 70% of needed allowances and the transportation sector receiving 0% of needed allowances.

The proposal provides no explanation as to why gasoline prices should bear the greatest price increase from the need to purchase all required carbon allowances. Gasoline purchases are a fundamental cost of living and occupy a disproportionate share of low-income family budgets. Similarly regressive, energy costs are a fundamental cost of living comprising a disproportionate share of low-income family budgets. The proposal provides no rationale as to why consumers in the form of families and workers should pay disproportionately higher costs for this basic need.

Economically, the proposal provides no rationale for its allowance allocation scheme based upon the relative cost across sector of reducing emissions, the relative feasibility of emissions reduction strategies, or the relative timing of reduction technology development and deployment. Therefore, avoiding hardship on U.S. citizens and threats to robust growth of the U.S. economy requires assigning compliance costs (and mitigating measures such as allocated allowances) based upon the cost of compliance and the hardship forced upon families and workers through those compliance pathways.

Incentive Allocations

Your proposal would impose hardship on U.S. citizens and threatens robust growth in the U.S. economy because it would raise costs above those needed for emissions reduction to pay for related environmental, energy and social programs. The proposal diverts many valuable carbon allowances to entities engaged in activities deemed desirable. These entities may then sell the allowances at auction and retain the proceeds to fund emissions reduction technology development, sequestration technology development, transportation technology development, environmental mitigation, environmental pollutant technology development, and state, local and international climate change impact mitigation relief measures. While worthy policy goals, diverting emissions allowances to generate revenue to fund other programs raises the cost of the program far beyond the cost to reduce emissions.

Furthermore, generating additional revenue based upon emissions and energy consumption places these additional costs disproportionately on low-income families and workers. Current U.S. government technology development, energy efficiency, environmental mitigation and social relief programs are all funded from a relatively progressive U.S. tax code that relies on the rich for most its revenues, as well as other income sources such as corporate profits, capital gains and property taxes (at least at the state and local level). Under this system, the poor pay the smallest relative portion of the burden and some low-income workers actually receive payments from the U.S. government in the form of the Earned Income Tax Credit. However, revenue generation from the proposal's carbon emissions based auctions places the greatest relative burden on low-income families and workers. Allowances that would otherwise go to covered entities to defray the cost of compliance and minimize energy costs, instead increase costs on all energy consumers, including low-income families and workers. The equitable way to fund these desirable programs without disproportionately imposing burdens on low-income families and workers is to fund them through the General Fund of the U.S. Treasury.

Technology Development Time Frame

Your proposal would impose hardship on U.S. citizens and threatens robust growth in the U.S. economy because it delays technology development financing. New technology development and deployment is the only way to meet the proposal's severe carbon cap targets without fundamentally disrupting the Nation's energy mix and the workers and families in sectors and regions of the country dependent upon that mix. While technology currently exists to separate carbon in modest industrial settings, no technology is proven in the power generation sector at full-scale. Similarly, sequestration strategies intended to store the massive amounts of carbon required under this proposal remain unproven. Such technology development is up to a decade away from deployment. Additionally, as the technology requirements of past Clean Air Act amendments showed us, deployment of new pollution control technology at full-scale with operationally reliability can take a decade or more. A twenty year technology strategy which does not receive funding for 5 years and has full funding delayed for 25 years will not produce significant carbon emissions cuts in the proposal's time frame. The proposal will thus force covered entities lacking full-scale reliable technology solutions to purchase significant amounts of allowances at massive costs to dependent workers and families. Therefore, avoiding hardship on U.S. citizens and threats to robust growth in the U.S. economy requires immediate, significant flows of funding to carbon emissions capture and storage technology development and deployment.

Thank you again for the opportunity to comment on your carbon cap proposal. Avoiding imposing hardship on U.S. citizens and threats to robust growth in the U.S. economy require an informed and meaningful discussion of any proposal's structure. Also crucial to the debate is thorough and realistic economic analysis of a proposal's expected outcomes. I expect you will provide the Committee and the public with such materials to confirm or allay concerns. If your staff has any questions on these comments, please have them contact John Stoody of my office at 224-5721.

Sincerely,

Kit Bond

Christopher S. Bond