

To the Select Committee on Energy Independence and Global Warming  
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October 18, 2007

Chairman Markey and Committee Members:

Thank you for your invitation to testify before the Committee today. The work before you on energy independence and climate change is as complex as it is important. It is especially encouraging that, as you think deeply about the global issue that confronts us, you are not falling prey to this urgency by ignoring the effects of new energy policies on our most vulnerable communities. That single focus, while understandably tempting, has in the past led to intractable patterns of disparity throughout the United States. Poor communities and communities of color have borne the brunt of increased toxic exposures, increased risk of accidents, insufficient emergency infrastructure, degradation of natural resources, and other environmental disamenities such as increased noise, light pollution, dust and odors. In my area of the country, Native American communities still suffer the effects of uranium mining, and fragile communities that depend upon our fragile arid environment, are currently witnessing intensive extraction practices, such as coal bed methane extraction. My colleagues on this panel will eloquently address impacts of energy policy and climate change in other areas. I will briefly add that my work has taken me to stressed communities throughout the United States, where you can vividly see, hear and smell the result of these injustices. And, importantly, where you can talk to people bear witness to the tragedies routinely visited upon their families and friends. It is a long-neglected problem and it is encouraging to see it being addressed at this level.

It is equally gratifying that your Committee seeks to do more. As shifting energy policies create new opportunities, you are attempting to ensure that poor and vulnerable communities share in those opportunities. It is important work, but because of the complexity of the problem, there are pitfalls along the way. This is an area fraught with the potential for unintended consequences. It is a few of these discrete, unintended consequences that I would like to address today.

In the process of retooling our energy infrastructure to address climate change and become more independent, we will unavoidably encounter significant siting issues. For example, it is very likely that we will promote renewable sources such wind farms, waste to energy plants, biofuel production facilities, and additional high voltage transmission lines. We will need more production facilities for solar panels and other equipment to build a newer greener energy supply. Then there are other forms energy supply presently under consideration, such as nuclear power plants, coal fired power plants with carbon capture and sequestration capacity, and more imported liquified natural gas, all asserted to be “cleaner” from a global warming perspective.

If there is no thought –on the front end-- as to how and where these facilities will be sited, and exactly where the distribution infrastructure will be routed, there is sure to be chaos at the back end. This is not good for utility companies, communities, or our domestic ecosystems that are more vulnerable to climate change effects; and it is not good for energy security and independence.

Let me give you one example to illustrate my point. Concerned about our dwindling supply of domestic natural gas, and asserting it to be a “cleaner” form of energy, we launched a campaign to increase importation of liquified natural gas from other countries. Leaving aside the issue of energy independence for a moment, take a look at this particular initiative from a national perspective. We had about five such facilities and an intent to rapidly build about 40-50 more. If you take a look at the FERC website, you will see a map of existing and proposed LNG import facilities. Then take a quick look at the website of this Select Committee, where you will see a map of the United States that illustrates locations predicted to sustain the greatest impacts from climate change. These are the locations where we anticipate, for example, more frequent and severe hurricanes. By this comparison, you will see that we are putting these facilities – perhaps literally as well as figuratively—right in the eye of the storms. You can also see that the gulf coast, heavily populated by poor and people of color communities, will receive the lion’s share of these facilities, especially as community and state opposition to LNG facilities remain fierce in other parts of the country. In other areas, some of these projects have in fact

folded due to such opposition. It is likely that what we are seeing is yet another emerging pattern of racial and income disparity. And as we have learned from the present disparities in spatial locations of hazardous waste facilities and high pollution emitters (commonly called “TRI facilities”), these disparities, once formed, are intractable.

Can a new, more comprehensive energy policy avoid this? It can, and it will be fair and more economically efficient over the long run. Cleaner forms of energy production and distribution are possible and desirable. Such an infrastructure, along with important incentives to use less energy, use renewable forms of energy, and create other energy efficiencies are possible and much of this already appears in proposed legislation.

However, as we think about where the new physical machinery of our clean energy infrastructure will be located, we need to provide adequate protection. Federal legislation can and should protect vulnerable communities by avoiding increasing impacts on communities that are already heavily burdened. This can be done, for example, by an alternative site analyses as a minimum requirement that has both a procedural and substantive mandate. The experience in brownfield redevelopment has taught us that this is not the death knell for high impact projects. Quite the contrary. When potentially impacted communities are brought into the process at a very early time, many impacts can be minimized or avoided altogether, and communities are more likely to support a process if they are included in it and given the resources for independent technical review of associated documents and permits. As some developers attorneys can attest, the projects that have been least successful are those where project sponsors have tried to avoid legal requirements and short cut the permitting process. Streamlined permitting, regulatory flexibilities (such as permits that allow alternative operating scenarios and compliance protocols), and overly creative interpretations of legal authority by permitting agencies, all tend to create community suspicion and opposition. This in turn often delays project completion. A comprehensive clean energy policy and the accompanying legislation should provide substantive criteria to make sure that vulnerable communities share in the benefits, instead of bearing a greater share of the burden.

In protecting vulnerable communities, another matter that should be avoided is the temptation to grandfather existing facilities in any new legislation. The proliferation of new coal fired power plants in anticipation of more stringent climate change legislation should not be rewarded. This is yet another area where we may discover, after the fact, that these “preemptive” facilities took the path of least resistance and ended up in or near vulnerable communities in disproportionate numbers.

As pedestrian as siting and permitting issues may appear to some, especially in the face of the unprecedented imperative of climate change, this must we should remember. This is the single biggest issue for vulnerable and highly impacted communities. Families in these communities are assaulted by staggering pollution loads and severe quality of life impacts. Science does not have a handle on cumulative exposures or synergistic risk caused by multiple pollution sources. Our regulatory regime is not designed, or adequately funded and equipped, to address multiple stressor situations. Largely, we have a chemical by chemical, media specific approach to pollution regulation. Let’s not add to the problems that this regulatory framework has yet to address.

As it is our ethical duty to do all we possibly can to roll back or avoid climate change, and to design adequate adaptive mechanisms, so is it our ethical duty not to do so on the back of our most vulnerable communities.

Thank you for the opportunity to present this testimony to the Committee, and for considering this important and often overlooked issue.