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Climate Solutions * Earth Day Network * Environment America * Environment Michigan
Environmental Defense Fund * Forecast the Facts * Greenpeace USA * Interfaith Power & Light
Iowa Environmental Council * Iowa Interfaith Power & Light * Michigan Environmental Council
Montana Environmental Information Center * Natural Resources Defense Council
Oregon Environmental Council * PennEnvironment * Protect Our Winters * Public Citizen
Re-Volt Pueblo * Snake River Alliance * Southern Environmental Law Center
SustainUS * Western North Carolina Alliance**

June 11, 2014

Chairman Tom Wheeler
Commissioners Mignon Clyburn, Jessica Rosenworcel, Ajit Pai and Michael O’Rielly
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20536

Dear Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O’Rielly:

We write to ask you to investigate 23 radio stations that continue to run a false and misleading radio advertisement, sponsored by the National Mining Association (NMA), despite extensive and detailed critiques of the ad. The ad is airing in five states: Arkansas, Colorado, Indiana, Michigan and Pennsylvania. We have sent multiple letters over the last three weeks to the respective stations’ managers, requesting that the radio stations cease airing the NMA radio ads, but these requests have gone unanswered. We ask that the Federal Communications Commission initiate an investigation into the licensees airing the deceptive NMA radio advertisement.

The central claim of the National Mining Association ad, which has been determined to be false by independent researchers, is an inaccurate and duplicitous statement about the impact of proposed clean air standards. The [Washington Post fact checkers](#) called the NMA ad claims “bogus,” “hyped,” and “wholly unsupported.” They concluded that “the ad does not pass the laugh test” and assigned the ad “four Pinocchios,” their worst rating. In addition, [the Denver Post](#) declared that the radio ad “flunks the truth test.” Both articles are attached for your review.

The National Mining Association has attempted to defend its deceptive ad against The Washington Post's analysis, but in doing so has simply created more misleading claims. Attached to this letter is [a point by point refutation](#) of the flawed arguments in NMA’s most recent letter.

The FCC has advised broadcasters that they are “to be responsible to the community they serve and act with reasonable care to ensure that advertisements aired on their stations are not false or misleading.” We request that the FCC investigate whether the radio stations running this misleading advertisement are properly serving their communities.

Sincerely,

350.org

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Climate Solutions

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ATTACHMENT A: List of radio stations airing the National Mining Association's false advertisements

City	Station	Owner
Fayetteville AR	KFAY-AM	Cumulus
Fort Smith AR	KOMS-FM	Cumulus
Little Rock AR	KARN-FM	Cumulus
Colorado Springs CO	KRDO-FM	Optima Comm. Inc
Colorado Springs CO	KVOR-AM	Cumulus
Denver CO	KOA/KHOW	Clear Channel
Denver CO	KQMT-FM	Entercom
Fort Wayne IN	WOWO-AM	Pathfinder
Indianapolis IN	WIBC-FM	Emmis Comm
South Bend IN	WTRC-FM	Pathfinder
Battle Creek MI	WBCK-FM	Townsquare Media Inc
Detroit MI	WJR-AM	Cumulus
Detroit MI	WWJ-AM	CBS Radio
Grand Rapids MI	WBCT-FM	CCM&E
Grand Rapids MI	WOOD-AM	CCM&E
Kalamazoo MI	WKMI-AM	Townsquare Media Inc
Kalamazoo MI	WKZO-AM	Midwest Comm
Lansing MI	WITL-FM	Townsquare Media Inc
Lansing MI	WJIM-AM	Townsquare Media Inc
Traverse City MI	WTCM-AM	Midwestern Bdcst
Harrisburg PA	WHP-AM	CCM&E
Philadelphia PA	KYW-AM	CBS Radio
Pittsburgh PA	KDKA-AM	CBS Radio

The Washington Post

A bogus claim that electricity prices will ‘nearly double’ because of clean coal technology

By Glenn Kessler Updated: May 23 at 6:00 am

“Hear that? ... That’s the sound of people opening their electric bills to discover they’ve nearly doubled. ... An 80 percent cost hike? That’s something we better get used to if extreme new Obama administration power plant regulations take effect.”

— [radio ad](#) sponsored by the National Mining Association regarding Environmental Protection Agency regulations on new coal-plant carbon emissions.

This is a case study of how a trade group takes a snippet of congressional testimony and twists it out of proportion for political purposes.

In a radio ad and in print advertising (“Ready for 80% Higher Electric Bills?”), the National Mining Association is claiming that electric bills will jump 80 percent because of pending regulations for new power plants. The source supposedly is an Obama administration official, but the claim falls apart under close scrutiny.

The Fact Checker takes no position on the EPA regulations, which some contend will increase the cost of the electricity and make it difficult to build new coal plants, but this ad does not pass the laugh test.

The Facts

Coal produces about 40 percent of the nation’s electricity, in part because it is cheaper than other forms of energy. The EPA has proposed [regulations](#) to limit carbon dioxide emissions from new coal plants: no more than 1,100 pounds of carbon dioxide per megawatt-hour of power produced, compared to [an average](#) of 1,400 to 1,700 for current new coal plants.

Under a process known as carbon capture and sequestration (CCS), the new plants would need capture about 20 to 40 percent of their carbon dioxide emissions. (Our colleague Steven Mufson recently wrote [a fascinating article](#) about the troubled Kemper plant in Mississippi, which aims to recapture 65 percent of emissions.)

On Feb. 11, a pair of clean-coal officials from the Department of Energy appeared before the House Energy and Commerce Committee and backed the administration’s argument that such CCS systems are commercially viable. At one point, a lawmaker asked Deputy Assistant Secretary Julio Friedmann about estimates ([referenced](#) on DOE’s Web site) about the initial costs of such technologies.

Referring to the wholesale price of energy, Friedmann replied:

The precise number will vary by plant whether it’s subcritical or supercritical, by coal rank, and about the kind of technology used.

Typically we expressed these costs as a range. So for the first generation technology that the Dr. Klara was mentioning earlier, we’re looking at something on the order of \$70 to \$90 a ton. In that context, that looks something like a 70 or 80 percent increased on the wholesale price of electricity.

For the second generation technologies which we’re developing, it’s our strong expectation that number will be roughly half. We’ll be looking at something like a four-year \$50 a ton cost.

The Committee blasted out [a news release](#) with the headline about the “70 to 80 percent” quote and a clip from the testimony, but the remarks attracted little notice beyond right-wing blogs. Bloomberg News wrote a short [article](#), and Fox News made a reference to the figure.

But reporters missed the fact that later in the hearing Friedmann clarified that, in giving these estimates, he was referring to “a high fraction of capture — basically 90 or 95 percent capture.” (He also made a distinction between a coal gasification facility, where full recapture could initially boost wholesale costs by 40 percent, and a pulverized coal power plant, which could boost wholesale costs as much as 80 percent.)

With a capture rate of 50 percent, which is closer to the EPA rule, the “actual integrated cost is much less and that’s relevant with respect to how you can deploy either marginal units or smaller fractions of capture on the newer existing fleets,” Friedmann said.

In other words, the “80 percent” estimate had nothing to do with the EPA rule. Indeed, Bloomberg noted that by contrast the EPA has proposed requiring all new coal plants to trap “some carbon-dioxide emissions.” The EPA rules also make clear the agency rejected “full recapture” (above 90 percent) because it would be too costly ([see pages 30-31](#)), which is why it instead proposed “partial recapture” CCS technologies.

Meanwhile, note that Friedmann was referring to wholesale price estimates. Even if he had been talking about the impact of the EPA regulations, it is quite a stretch to assume that any increase in costs at a plant would translate into the exact same increase at the retail level, given that utilities often have [a fleet of power generation plants](#) — such as existing coal plants, natural gas plants, nuclear plants, or wind and solar facilities. Rates, in other words, would not be based on a single new power plant that uses carbon capture technologies. (EPA has not released proposed rules for existing power plants, but officials have said the rules would not require CCS technologies.) The radio ad at one point tries to give itself some cover by saying the “US Department of Energy says they could push wholesale electricity costs up 80 percent.” But then it then makes an unjustified leap that homeowners’ electric bills have “nearly doubled.”

Nancy Gravatt, NMA spokeswoman, defended the ad. “The ‘80 percent increase’ was widely quoted in all the media and widely covered, it is not something we misconstrued or misquoted,” she said. “The doubling of a person’s electricity bill is our best estimate on what the impact might be for an average consumer based on realistic scenarios. It’s based on analyzing the impact of EPA regulations, which are taking out the nation’s most low-cost electricity, which is coal-based and purchased on long-term stable contracts, and replacing with other, less predictable and more costly sources that are often purchased on the spot market.”

She pointed to [a Los Angeles Times article](#) about “a growing fragility in the U.S. electricity system” as a “result of the shutdown of coal-fired plants, reductions in nuclear power, a shift to more expensive renewable energy and natural gas pipeline constraints.” California’s electricity prices could increase 47 percent over the next 16 years, the article said, citing a study, though that figure also stems from “heavy investments in transmission lines” and other factors.

The Pinocchio Test

There’s little justification for this radio ad to claim that people will see their electric bills nearly double because of the EPA rules on new coal plants. The NMA has seized upon a high-end wholesale estimate for “full recapture” carbon capture and sequestration technologies which the EPA specifically rejected — and then leveraged that factoid to make a wholly unsupported claim that the same increase would be reflected in retail prices.

The EPA’s proposed regulations, along with other factors, may boost the cost of electricity, but the NMA should not rely on such bogus, hyped evidence to make its case.

Four Pinocchios ([About our rating scale](#))

ATTACHMENT C: Denver Post article stating the NMA ad “flunks truth test”

THE DENVER POST

Radio ad about electric bills flunks truth test, but still airs

By Lynn Bartels | *The Denver Post* | POSTED: 05/28/2014 04:44:41 PM MDT

For two weeks now, Coloradans have been listening to a radio ad that claims their electric bills could increase by 80 percent if President Barack Obama's new power-plant regulations go into effect.

[After the ad flunked a truth test](#), a Washington, D.C.-based environmental group asked the five Colorado radio stations airing the spot to pull the "false, misleading and deceptive advertisement."

So far, that hasn't happened — and the ad, which began running May 12, is scheduled to continue airing through June 22. The ad buy in Colorado is nearly \$200,000.

That [the National Mining Association](#) chose Colorado as one of five states where it placed the ad shows once again the Centennial State's role as a force when it comes to the intersection of energy and politics.

The association stands by its ad, which was awarded "Four Pinocchios" — or a "whopper" — by The Washington Post's "Fact Checker."

"Hear that? ... That's the sound of people opening their electric bills to discover they've nearly doubled. ... An 80 percent cost hike? That's something we better get used to if extreme new Obama administration power-plant regulations take effect," the ad begins.

The 80 percent figure is based on administration testimony before the House Energy and Commerce Committee on Feb. 11. The ad-check story notes that the spot does not include later testimony, which changes the impact of that percentage.

"This is a case study of how a trade group takes a snippet of congressional testimony and twists it out of proportion for political purposes," Fact Checker columnist Glenn Kessler concluded.

Based on the fact check, [the Natural Resources Defense Council](#) sent letters to Colorado station managers at KOA, KHOW, KQMT, KRDO and KVOR asking them to stop airing the ad.

"If you fail to do so promptly, we will be forced to consider further action," the resources group wrote.

The ad also is running in Arkansas, Indiana, Michigan and Pennsylvania.

"We stand by the ads," said Nancy Gravatt, spokeswoman for the National Mining Association. "We feel it's important not to suppress information, to at least make the public aware that these far-reaching regulations will have a cost impact for the consumer."

Lynn Bartels: 303-954-5327, lbartels@denverpost.com or twitter.com/lynn_bartels

ATTACHMENT D: Natural Resources Defense Council's Response to NMA's May 27 letter

NATIONAL MINING ASSOCIATION CLAIMS DEBUNKED (AGAIN)

Point #1 Debunked: CCS technology will not result in an 80% electricity price increase

- **Quote out of context:** The cited statement by Department of Energy official Julio Friedman does not provide any factual basis for NMA's ad claims. NMA has twisted Friedman's statement out of context. His comments were unrelated to EPA rules and pertained only to the hypothetical cost of capturing and sequestering 90 percent of the carbon dioxide from a new power plant. EPA's proposed regulations for new power plants will require the capture and sequestration of only a *portion* of such a plant's carbon dioxide (roughly 50 percent). Mr. Friedman referred not to the impact on consumer rates or bills, but to the cost of building a single new power plant if it used this technology.¹ A hypothetical percentage increase in the cost of building a single plant does *not* translate into anywhere near the same percentage increase in consumer electricity rates, because rates reflect the cost of supplying electricity from an entire fleet of power plants and transmission and distribution facilities, not on any single power plant. As we describe below, retail customer rate increases will never be more than a small fraction of production cost increases at individual new coal units, if any are built in a given state. Therefore, even if Friedman's remark pertained to and correctly assessed the cost of a plant equipped with partial CCS, it could not justify NMA's egregious claim that EPA carbon pollution standards will "nearly double electricity bills." The NMA advertisement is false, deceptive, and misleading, plain and simple.
- **Kemper costs unrelated to CCS:** NMA tries to distract from its groundless initial claims by citing cost overruns at Southern Company's Kemper project in Mississippi. However, Southern Company has explained in news reports that the Kemper project's cost overruns are due to the company's underestimating the costs of conventional components of the project, not due to the cost of the CCS technology.² NMA has no evidence for its false claim that EPA's new power plant standard will result in an 80% increase in wholesale electricity costs of new coal fired power plants.

Point #2 Debunked: NMA's claiming that EPA is to blame for electricity rate increases is wholly false

- **Cheap natural gas is outcompeting coal:** NMA blames EPA clean air standards for increasing electricity prices by taking old coal plants out of commission. The truth is that low natural gas prices have turned the market against coal. Forecasts show that no new coal plants are expected to be built, regardless of new EPA standards. Utilities and power producers are deciding to retire coal plants in favor of cheaper and cleaner natural gas facilities.
- **Wholesale does not equal retail:** The NMA 80% price increase claim would be false *even at the wholesale level*. It is unquestionably false to claim an 80% increase in the *retail* electricity rates. The wholesale price of electricity is often only about half of the price consumers see on their electric bill. The

¹ Under no reasonable scenario could the production cost increase associated a new CCS-equipped coal plant exceed 4% to 20%. EPA's proposed standard can be satisfied with about a 50% pollution capture rate, not the 90% capture rate Friedman considered. EPA cites numerous studies in its analysis showing that partial CCS will result in no more than a 4% increase in production costs at individual new coal units when the revenue is included from selling captured CO2 for enhanced oil recovery (EOR) in oil fields. Without this EOR revenue, the production cost increase for CCS is still only 20% – a far cry from NMA's claim of an 80% increase.

² Cusick, D. E&E News. "Southern Co. subsidiary absorbs \$333M cost overrun on 'clean coal' plant." 25 April 2013, <http://www.eenews.net/climatewire/stories/1059980102>; Lawson, J. WLOX.com "MS Power CEO defends controversial Kemper County plant." 26 July 2013, <http://www.wlox.com/story/22944001/ms-power-ceo-defends-controversial-kemper-county-plant>

other portion of the price is the cost of transmission and distribution, which would be unaffected by costs of CCS technology.

- **Peak price electricity times are relatively few hours in a year:** NMA makes a convoluted argument that marginal prices of CCS plants would drive up all wholesale prices. They neglect to explain that the EPA, the Energy Department's Energy Information Administration, and virtually all financial analysts and forecasters project that only a handful of new coal plants, if any, will be built over the coming 15 years. The reason is that other power generation technologies, and end-use efficiency, are far more economical than new coal plants, even without carbon capture and storage. If NMA's assumptions hold true that CCS plants will be built, and that they will be dispatched last due to their higher marginal costs, then these plants will run very few hours in any year, only during peak periods, because plants with the highest production costs are, logically, dispatched last and least. Other, lower-priced power plants will set the price in most hours of the year, and customers would hardly see any impact on their bills.
- **Winter 2014 price increases completely unrelated to EPA standards:** NMA invokes the polar vortex as a distraction from its misleading radio ad, and claims EPA *mercury* limits (unrelated to future carbon limits) are to blame for high electricity prices this past winter. Of course, the NMA radio ads are focused on future carbon pollution requirements and thus completely unrelated to both the polar vortex and the EPA mercury standards. In addition, NMA's claims about the polar vortex layers more false and misleading statements on top of their original deception.
- **Old coal plants will not be needed in future cold snaps:** Again referring to the polar vortex, NMA claims that EPA's mercury standard – which is unrelated to NMA's radio ad – will force shutdown of coal plants and lead to increasing winter prices. The reality is that the main factor leading to spikes in Northeast electricity prices during January's polar vortex was extremely high demand for natural gas, leading to constraints on the supply of natural gas, coupled with coal, gas and oil plant outages. PJM, the grid operator of the Mid-Atlantic region, also called on extra, unnecessary plants to be available during a holiday weekend, which drove up prices. During this past winter, an unexpected number of plants were out of service for maintenance issues due to the cold weather. Operational changes are being made this year to ensure fewer fossil fuel plant breakdowns during future cold. PJM now says it will have more than enough power to meet reliability needs during cold and hot weather after accounting for all planned coal-plant retirements. Old coal plants will not be necessary in future cold snaps.
- **PJM electricity capacity auction prices are not driven by EPA standards:** Grid operator PJM's recent auction for power delivered in 2017-2018 resulted in a "clearing price" twice last year's. NMA makes a laughable claim that this price increase is attributable to environmental standards. The truth is that PJM introduced new rules for its auction this year with the intention of increasing prices, in order to provide more revenue to power plant owners, in order to incentivize new generation where needed. The new PJM rules included fewer power imports from outside the region, and more limits on the amount of "demand response" (customer reductions in electricity use in response to price signals); these changes are responsible for the higher prices seen in the auction. In short, the increase in price is unrelated to any EPA rules.

Point #3 Debunked: NMA makes an unfounded declaration that their chosen technologies are better

- NMA lists a number of technologies that may make a new coal unit slightly less dirty than current designs. However, new coal plants utilizing NMA's preferred technologies are still dirtier and more expensive than alternative power sources, such as new natural gas plants, wind, solar, and energy efficiency. Declaring that new coal plants without CCS technology will "reduce emissions" is an Orwellian claim, since building these plants instead of the alternatives would result in much higher pollution rates.