



## EPA finds 'overwhelming' evidence CO2 emissions threaten public health

by [Kathleen Hart](#)

Brushing aside concerns raised by the recent "climategate" scandal, U.S. Environmental Protection Agency Administrator Lisa Jackson said Dec. 7 that the science "overwhelmingly" shows that carbon dioxide and other greenhouse gases threaten public health and the environment.

Noting that the Supreme Court ruled in 2007 that the Clean Air Act "is written to include greenhouse gas pollution," Jackson said "there are no more excuses for delay."

"Starting next spring, large emitting facili-

ties will be required to incorporate the best available methods for controlling greenhouse gas emissions when they plan to construct or expand operations," Jackson said. However, she added that EPA would have to put out technical guidance to tell a facility what that would mean and then work with states to implement solutions. "Nothing in today's action requires any regulatory action," she said.

Jackson went on to emphasize that "anything done in the future under the Clean

Air Act — and we have not proposed what those technologies will look like — has to be done with an eye towards what's happening in Congress, but more importantly, the development of technology. You simply cannot make people implement a technology that does not yet exist."

Jackson said the evidence of human-induced climate change goes beyond observed increases in average surface temperatures and includes melting ice in the Arctic, melting glaciers around the world,

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## Pepco Holdings Inc. to exit retail electric, natural gas supply business

by [Corina Rivera](#)

Pepco Holdings Inc., in a Form 8-K filed Dec. 7, said it has decided to exit the retail electric and natural gas supply business, which it conducts through its subsidiary Pepco Energy Services Inc.

In prior disclosures, PHI said it was performing a strategic analysis of the retail energy supply business with a view to a possible restructuring, sale or wind-down of the business. The retail energy supply business historically has generated a substantial portion of the operating income of PHI's

Pepco Energy Services operating segment, PHI said.

"Following a comprehensive analysis of strategic alternatives, PHI has elected to wind down the retail energy business in an orderly manner," the company said. "To effectuate the wind down, Pepco Energy Services will discontinue signing new retail energy supply contracts. During the wind down, Pepco Energy Services will continue to fulfill all of its commercial and regulatory obligations and to perform its customer service

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## Midwest ISO releases 2009 expansion plan, estimate of planning-related value

by [Kerry Bleskan](#)

The Midwest ISO released its annual transmission expansion plan Dec. 4, along with an economic assessment concluding that the system operator will save the region hundreds of millions of dollars in 2009.

The plan has fewer and less costly projects in the highest-priority category than in previous years: 274, at a cost of \$903 million, compared to 2008's 332 projects totaling \$2.4 billion. The projects will create \$1 billion in annual benefits, MISO said. The MISO board of directors has approved \$7.2 billion

in transmission investments since beginning the transmission expansion plan process six years ago; projects encompassing \$2.7 billion of that are in service.

Twenty-two of the projects new in 2009 are eligible for cost-sharing across the ISO's footprint, including the first project to qualify on the basis of its economic benefits. That project, called a "Regionally Beneficial Project," is a \$5.7 million, 345-kV tie line in south-central Illinois, slated to be in commercial operation in June 2011. Twelve proj-

ects to connect new generation, totaling \$91 million, are eligible for cost-sharing.

The 2009 analysis shows that regional power supply is stable through at least 2018, four years longer than last year's projection. "Ample supply, and the transmission capacity to move it, will exist to meet load expectations under nearly all base case [study] conditions," MISO said. "The improved forecast ... is largely due to an expectation by the load serving entities of the Midwest ISO of continued low load, driven by the recent impacts to the economy."

MISO predicted that regional peak demand will grow "slowly but consistently" over the next 10 years, from 2009's forecast of 95,890 MW to 105,265 MW in 2018.

### Approved projects

The projects designated "Appendix A" projects are considered approved by the MISO, and the affected transmission owners are supposed to make a good-faith effort to get them built. Most are scheduled for completion by 2014, though a few are expected to take longer. The biggest projects in the 2009 Appendix A list are a \$66 million project in Ameren Corp.'s Illinois territory, a \$40 million project in Michigan Electric Transmission Co. LLC's system and a \$38 million FirstEnergy Corp. project in Pennsylvania. Other big projects, priced in the range of \$20 million to \$29 million, include more METC upgrades and rebuilds in Michigan, an American Transmission Co. LLC line rebuild in Wisconsin, an Xcel Energy Inc. project in south Minneapolis and two International Transmission Co. upgrades in Iowa. METC and ITC are subsidiaries of ITC Holdings Corp.

The new Appendix A list contains 3,350 miles of new or upgraded line due by 2019. By miles, the top states are Michigan and Iowa at more than 700 miles each, closely followed by Minnesota. New projects in Michigan total more than double the cost of other states' new Appendix A projects, at more than \$300 million.

The ISO assessed the economic benefits of the planned projects in the report and in a new "Value Proposition." MISO's estimates of annual benefits include:

- \$263 million to \$394 million in improved reliability.
- \$210 million to \$264 million from optimized energy dispatch.
- \$199 million to \$213 million in reduced unloaded capacity.
- \$184 million to \$194 million in lower regulation reserves.
- \$76 million to \$81 million in reduced spinning reserve requirements.
- \$525 million to \$660 million in deferred generation investment resulting from load diversity, greater plant availability, direct load control and dynamic pricing.

### Planning efforts continue to multiply

"Evolving energy policy has a significant impact on current planning activities," MISO said, noting that 23,000 MW of wind will be needed to meet state renewable portfolio requirements in the MISO footprint. "The level of uncertainty around the potential outcome of these many policy discussions continues to cause challenges for those who plan the transmission system and hesitancy for those who may wish to invest in it." The report noted the many ongoing regional transmission planning and development initiatives, including processes driven by the Midwest Governors Association and the Organization of Midwest ISO States.

Congestion remains a concern, and in 2009 MISO began a study of the top congestion flowgates, which the transmission operator plans to continue on an ongoing basis. Besides providing historical information, researchers hope the study will catch some problems in

time to work around them before congestion begins to negatively impact transmission systems.

The study has another \$22.8 billion slate of projects designated "Appendix C," mostly longer-term, high-voltage projects that are conceptual for now, such as a potential \$14 billion extra-high-voltage transmission overlay.

### COMPANIES REFERENCED IN THIS ARTICLE:

<a href="#">Midwest ISO</a>	
<a href="#">Ameren Corp.</a>	AEE
<a href="#">American Transmission Co. LLC</a>	
<a href="#">FirstEnergy Corp.</a>	FE
<a href="#">International Transmission Co.</a>	
<a href="#">ITC Holdings Corp.</a>	ITC
<a href="#">Michigan Electric Transmission Co. LLC</a>	
<a href="#">Xcel Energy Inc.</a>	XEL

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## Stakeholder acceptance, policy incentives needed to develop offshore wind

by [Corina Rivera](#)

Stakeholder acceptance and policy incentives are key elements for offshore wind projects to be successful, panelists said Dec. 3 at the American Wind Energy Association's Offshore Wind Power Workshop in Boston.

**Ben Kelahan, senior vice president of energy with Saint Consulting, which was involved with the Bluewater Wind LLC project in Delaware, said it is critical for offshore wind energy projects to engage the general public in the process from the get-go. "It is the vocal advocates that determine the outcome of projects like these," he said. "To reach them, first, you need to understand who they are, then you have to repetitively educate them and then you have to get them to act, lest you be the lone voice in supporting your own project."**

**Bluewater Wind, recently acquired by NRG Energy Inc., has the only signed power purchase agreement involving an offshore wind farm, one approved by Delaware agencies in 2008.**

**There are obvious differences in public outreach planning and execution for offshore versus onshore wind projects. "Approvals typically incorporate federal, state and local decision-makers that represent far-flung public constituencies that they report to and now have a say on your project," Kelahan added. "Having the support of one locality or more doesn't translate to overall support for your project."**

**Citing NIMBY, he noted that a person's home, property and backyard are typically the greatest assets he or she possesses; when something is perceived as a negative impact on that, a rational response is to protect it.**

**"It's our job in the industry to educate the public about those issues and dispel rumors to the contrary," he said. "The degree of difficulty is greater with offshore projects obviously based on the wind park possibly in the view of multiple miles of coastline from any number of cities and towns. All of a sudden, outreach and education**

to those community stakeholders is multiplied several times, and the information you're sharing with one community better be consistent with the next."

Referencing impacts on customers' bills, he said: "In this economy, green is good, but cash is still king. ... [In Bluewater's case] getting residents to actively support even a small rate increase in the short term for more stable and reliable rates tomorrow was not an easy task. In fact, early on, it was quite a challenge and required a lot of persuasion, but we got there."

To somewhat balance the economic argument, the ability of offshore wind energy to bring jobs, manufacturing and an economic hub to the area in Delaware was critical and received considerable coverage, he said.

Kelahan also encouraged developers to start early in their outreach campaign to tell a story about their companies' value system, goals, accomplishments and how they are aligned with the public's.

"Bluewater did their homework, and I think that's a reason, and one of the major reasons, for their success," he said. "The Bluewater experience in Delaware is testament to the fact that, if you map out stakeholders early, consistently engage and empower them in the process, you can be successful yourself."

Willett Kempton, a University of Delaware professor involved in the Bluewater Wind project, said it was a "people's campaign," with 3,000 written documents on the docket. "The local university, I think I can objectively say, was important in this whole process, so it was really a people's campaign primarily," he said, noting that he did lectures around the state as well as media interviews and individual sessions with legislators.

Barbara Hill, executive director of Clean Power Now, said her organization worked closely with Cape Wind Associates on its Cape Wind Offshore project in Massachusetts. "The NGO community and the developers must partner together launching this industry — that is a critical component to the success of making sure these projects get built," she said. "The results of what we've been able to accomplish over the last six years, I believe, is rooted in the final environmental impact statement that Cape Wind has seen. We have been working tirelessly on this, we have been engaging tirelessly and we feel very strongly that this could not have happened without a community-based organization partnering with the developer and being able to engage the community and enable the community and empower the community to support this project."

Cape Wind is owned by Energy Management Inc.

In addition to stakeholder acceptance, policy incentives are also needed for projects to succeed.

Speaking on a separate panel, Jerome Guillet, head of energy, structured finance with Dexia Credit Local, said offshore wind remains more expensive in terms of cents per kilowatt-hour than onshore wind. "If you want to develop wind offshore, you're going to need to pay for it one way or another, and that needs to be whether it's a feed-in tariff or an add-on to revenue or [a power purchase agreement] — there will be costs that ultimately [are] going to be passed on to ratepayers," he said. "There's some value in other things. ... But that cost has to be acknowledged and realized, and you can't try to do offshore with saying it's not going to cost anything."

Guillet emphasized the need for a stable regulatory framework. "Pretty much any kind of regulatory framework works if it's understood and if it's stable," he said. "If you've already gone and adopted a regulatory framework, stick to it, don't dump it to start another one because then you lose three, four, five years. If you're starting from scratch, the feed-in tariff is probably the simplest system."

Among other things, he said, "Offshore wind can be banked, it has been banked, it will be banked, but you have to plan this very carefully, do your project management [and] do your detail design."

Steven Clarke, director of wind energy development at the Massachusetts Department of Energy Resources, said a carbon-pricing mechanism is essential to making renewables competitive with the fossil fuels.

"A carbon-pricing mechanism is fundamental," he said. "Without that, development will be sort of stalled and not happen as fast as we all want it to so."

Long-term contracts are an effective mechanism for incentivizing offshore wind, he said, referencing Cape Wind's negotiations with National Grid plc subsidiary National Grid USA. Research and development is another critical area in reducing the cost of offshore wind. "Infrastructure is also critical," he added. "This is also an area where states can play a leading role in identifying locations for ports and transportation."

Clarke called for collaboration between state and the federal government and among the states as well. "In terms of developing a thriving and viable sector, it will entail a significant amount of collaboration on issues like infrastructure and transmission."

Joyce McLean, director of strategic issues at Toronto Hydro Corp., cited Ontario's Green Energy Act's feed-in tariff, which promises a fixed price to developers of renewable energy projects for their

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electrical output. Ontario officials first outlined the rate schedules in March. Contracts for the output are to run for 20 years.

“In Canada, the feed-in tariff is really, I think, instrumental in ensuring that there is an engaged industry and community around the development of wind, whether it’s onshore or offshore.”

#### COMPANIES REFERENCED IN THIS ARTICLE:

**Bluewater Wind LLC**

**Cape Wind Associates**

**Energy Management Inc.**

**National Grid plc**

**National Grid USA**

**NRG Energy Inc.**

**Toronto Hydro Corp.**

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## FERC refuses to issue order wind generator says it may need to avoid scrapping 400 MW project

by [Marcy Crane](#)

Despite Clipper Windpower Development’s claim that it may have to abandon its plan to build a 400-MW wind energy project in Baja California, Mexico, if it is required to pay a \$7.5 million security deposit to keep its interconnection request active, FERC on Dec. 3 refused (ER08-1317, ER09-1722, EL10-15) to waive the company’s financial security obligation.

The commission downplayed the potential impact of its decision, however. The agency noted that it already set for hearing the California ISO’s security deposit policy as it relates to generators such as Clipper Windpower that switch from full-capacity deliverability to energy-only deliverability status. Moreover, by setting the earliest possible refund effective date in the proceeding, the commission said it has ensured that Clipper Windpower will be eligible for refund of any portion of the security it posts above the amount ultimately determined to be just and reasonable.

In order to cull nonviable projects from the huge backlog of requests in its interconnection queue, the California ISO in 2008 boosted the financial commitments for parties seeking interconnections. After several cash-strapped renewable energy project developers complained that the new up-front security requirements were too high, the California ISO in September asked FERC to approve several tariff changes designed to ease the financial burden on those entities.

Of all the parties weighing in on the September proposal, Clipper Windpower alone blasted the plan, alleging that the tariff revisions would require it to provide financial security far in excess of the total cost of the network upgrades needed to interconnect its facility. The problem, according to Clipper Windpower, is that the revised tariff provisions do not allow a customer to reduce its security requirement if it switches from full-capacity delivery service to energy-only delivery service following completion of a phase one interconnection study.

In fact, Clipper Windpower told FERC that it originally sought full-capacity interconnection service for its proposed project until a phase one interconnection study determined that the company would be responsible for funding approximately \$538 million in net-

work upgrades. While Clipper Windpower later changed its request to energy-only service because doing so meant it would only have to pay for about \$4.6 million in network upgrades, the company subsequently found that it still would be required under the Cal-ISO’s proposed tariff revisions to post security as if it were a full-capacity service customer.

Asking FERC to reject the Cal-ISO’s proposal, Clipper Windpower said it is contrary to FERC’s precedent because it would require the company to post \$7.5 million in security, 50% of which is nonrefundable, even though its total security deposit obligation based on the upgrades it is required to fund as an energy-only customer should be about \$686,700.

On Nov. 17, FERC accepted the California ISO’s proposal for filing, although the agency agreed with Clipper Windpower that requiring an interconnection customer to post a financial security deposit in an amount greater than its full exposure for upgrades may be unjust and unreasonable. The commission therefore established a Federal Power Act Section 206 investigation to consider the matter, and set a refund effective date of Nov. 27.

Nevertheless, concerned that its interconnection request would lose its queue position if it failed to post the \$7.5 million security deposit by Dec. 4, Clipper Windpower on Nov. 20 filed an emergency motion for clarification and temporary waiver of the security deposit provision. FERC “cannot have intended” for it to have to post the full security deposit prior to the paper hearing now that it has found that the grid operator’s policy may be unjust and unreasonable, Clipper Windpower asserted.

Not true, FERC said in the instant order. The California ISO’s existing tariff is still in effect, and therefore “Clipper Windpower remains obligated to its original financial security deposit until such time, if at all, that this amount is determined to be unjust and unreasonable and a new just and reasonable amount is established,” the agency explained. Should such a determination be made, the commission said, Clipper Windpower and other similarly situated entities will be adequately protected by the refund effective date.

Clipper Windpower Development is a subsidiary of Clipper Windpower Plc.

#### COMPANIES REFERENCED IN THIS ARTICLE:

**Clipper Windpower Development**

**California ISO**

**Clipper Windpower Plc**

[📄 Dec 03, 09 CAISO Energy Regulatory Filing](#)

[📄 Nov 20, 09 CAISO Energy Regulatory Filing](#)

[📄 Nov 17, 09 CAISO Energy Regulatory Filing](#)

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## Colorado approves base rate increase for Xcel Energy for 2nd time in 2009

by [Jeff Stanfield](#)

The Colorado Public Utilities Commission announced Dec. 4 that it has approved a \$128.3 million increase in Xcel Energy Inc. electric rates effective Jan. 1, 2010.

The rate design phase will start in a hearing set for Jan. 11, but for the interim period the rate increase will be set across the board for

each customer class, PUC spokesman Terry Bote said. The increase will raise residential bills by about 6.5%, or \$4.43 per month, based on 632 kWh of monthly usage, and small-commercial bills will increase about 5.7%, or \$6.72 per month, based on usage of 1,123 kWh per month, Bote said.

Secondary general customers, such as supermarkets and large department stores, will see a 4.02% increase. Primary general customers, mainly industrial users, will get a 3% increase of \$1,059.78 for 492,079 kWh per month, Bote said. Increases for all customers will vary, depending on actual consumption.

Investments covered by the rate increase include costs associated with the third generating unit at the Comanche coal plant due to be completed this month, the addition of 300 MW of gas-fired generation at the Fort St. Vrain station, the SmartGridCity project in Boulder and other improvements.

The PUC said it authorized a 10.5% rate of return on equity for the company's electric operations. That is the profit that a utility is authorized to earn, but it is not guaranteed, the PUC said. Bote said the PUC aims to issue a written order Dec. 21.

The PUC approved, with modifications, a settlement filed Nov. 18 by Xcel Energy d/b/a Public Service Co. of Colorado, the PUC staff and two other parties. As part of the settlement, Xcel Energy is prohibited from filing a rate case through which an increase would be effective earlier than Dec. 31, 2011. However, Xcel Energy can propose an alternative mechanism designed to recover incremental costs associated with its most recent resource plan, as approved by the PSC in September 2008.

While the commission authorized a \$237.9 million base rate increase, \$109.6 million of revenue the company has been collecting through its air quality improvement rider and demand-side management cost adjustment mechanisms will be transferred to base rates. The settlement would have given Xcel Energy a \$136 million revenue increase.

The air quality rider will be dropped, but the demand-side cost adjustment will continue to be shown on electric bills, Bote said. The

commission accepted settlement terms that reduced the monthly demand-side adjustment for residential customers using 632 kWh from a current rate of \$3.13 to 84 cents per month after rolling most of the costs into base rates, Bote said. The rider varies depending on consumption.

The approved settlement uses a hybrid test year of 2008 historical expenses, plus forward-looking expenses for generation and distribution, Bote said. The PUC rejected settlement terms that Xcel Energy be subject to an earnings sharing mechanism on a sliding scale above the authorized rate of return of 10.5%, Bote said.

Xcel Energy filed a rate application in the case on May 1 before the PUC decided May 27 in an earlier rate case to allow the utility a 5% across-the-board increase of \$112.2 million that became effective July 1. That increase was approved under terms of a settlement the utility announced April 22.

The utility company asked for a \$180 million increase beyond the \$112.2 million approved in the first rate case.

On Sept. 4, the PUC staff recommended a \$155.6 million electric base rate increase, but the net ratepayer impact, adjusted for the transfer of the air quality and demand-side management transfers, would have been a \$68.4 million increase.

The Colorado Consumer Counsel had urged a net rate increase of less than \$100 million, but most of the ratepayer advocate's arguments were not accepted, Bote said.

**COMPANY REFERENCED IN THIS ARTICLE:**

[Xcel Energy Inc.](#) XEL

 [Apr 22, 09 Xcel Energy Inc. Press Release](#)

 [Full filing](#)

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Crescent City Connection at Night. *Photographer: Carl Purcell.*

## FERC will not appeal court ruling on hydro license

by [Kelly Harrington](#)

FERC will not appeal a federal appeals court ruling that overturned a commission order issuing a new license for a hydroelectric facility on the Mohawk River in New York.

Finding that FERC acted “arbitrarily and capriciously” when it refused to allow the Green Island Power Authority to intervene in Erie Boulevard Hydropower LP’s School Street hydropower project relicensing proceeding, the U.S. Court of Appeals for the 2nd Circuit on Aug. 10 overturned the commission’s February 2007 order issuing a new license for the facility.

FERC spokeswoman Celeste Miller on Dec. 7 confirmed reports about the commission’s decision not to appeal the ruling to the Supreme Court. The deadline to do so was in November.

“The decision back in August remanded the case to FERC, and that’s currently under review by the commission,” she said.

FERC is not under a timeline to determine how it will proceed.

GIPA attorney Marc Gerstman said the power authority had already filed a motion to expedite before FERC made the decision not to seek review by the Supreme Court. GIPA filed its motion Oct. 22.

“We certainly love the possibility that FERC would go right to an evaluation of the substantive issues involved with this Green Island Power Authority project and hope that they get past the procedural issue and get right into the issue of which project is best adapted to meet the public interest,” he said.

Brookfield Renewable Power Inc., which owns the 38.8-MW School Street plant, and GIPA have long been at odds over using the Mohawk River for competing hydroelectric proposals.

In 2007, FERC granted Brookfield subsidiary Erie Boulevard Hydropower a new 40-year license for the project. While Brookfield’s plans call for more capacity and a fish passage at the project, GIPA contends that its alternative to build a 100-MW hydroelectric project near the School Street site is a better option.

The court in August overturned FERC’s order issuing a new license for the facility and remanded the case back to the commission.

Brookfield spokeswoman Julie Smith-Galvin said the company is not commenting on the matter.

Brookfield is a subsidiary of Brookfield Asset Management Inc.

### COMPANIES REFERENCED IN THIS ARTICLE:

**Green Island Power Authority**

**Brookfield Renewable Power Inc.**

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## EPA official: Dozens of new clean air rules in the offing

by [Glen Boshart](#)

Just a few days before the U.S. Environmental Protection Agency released its long-awaited findings that greenhouse gas emissions endanger the public health and welfare and that emissions from on-road vehicles contribute to that threat, Gina McCarthy, EPA assistant administrator for air, told state regulators that her agency will be issuing dozens of new rules and regulations pertaining to utility

emissions between now and 2012.

However, unlike those issued during the previous administration, the new rules and regulations will be “done right” and “are going to stick” because they will be clear, consistent with statutory requirements and therefore upheld by the courts upon judicial review, McCarthy maintained Dec. 3 during a climate conference in Dallas sponsored jointly by the National Association of Regulatory Utility Commissioners and the National Council on Electricity Policy.

The EPA official suggested that one reason her agency will have so much to do over the next few years is that the rules established by previous administrations are legally indefensible. EPA is working on responses to about 30 court remands and rules requiring reconsideration, she reported, while an additional 20 rules are set to expire during the time frame at issue.

McCarthy acknowledged that while she would prefer that the entire Clean Air Act be rewritten to reflect a multipollutant strategy, Congress is unlikely to take such radical action. Even the modifications that lawmakers are now considering will not be enacted until next year, at the earliest. Thus, McCarthy said, EPA is forging ahead and will revise existing rules and establish new ones within the confines of the existing statutory framework, many of which will represent significant changes to current clean air regulations.

Detailing EPA’s short-term priorities, McCarthy said the agency between now and 2011 will re-examine its rules for all six pollutants regulated under the National Ambient Air Quality Standards — ozone, particulate matter, lead, sulfur dioxide, nitrogen dioxide and carbon monoxide — many of which deal with emissions spewed by electric power plants.

For each of the six pollutants, EPA must set standards sufficiently protective of both public health (called the primary standard) and public welfare (called the secondary standard). The Clean Air Act requires EPA to review and, if necessary, revise the standards every five years, but the agency has repeatedly failed to abide by the five-year schedule, sometimes letting a decade or more pass between reviews for a specific pollutant.

For example, EPA has not completed a review of the standards for sulfur dioxide since 1996 or for carbon monoxide since 1994. Although it has not completed a review for nitrogen dioxide since 1996, the agency in July proposed to revise those standards to comply with a court order mandating that it set final standards by January 2010.

The standards for ozone, particulate matter and lead all have been revised since 2006, but McCarthy said EPA will continue to review those as well for possible additional revisions based on claims that President George W. Bush’s administration may have improperly influenced the outcome of those rulemakings.

McCarthy further reported that her agency is working on a new smog transport rule that will apply to the entire country, instead of being restricted to the Eastern Interconnection, as was the case with the previous Clean Air Interstate Rule that was first overturned and then remanded by the courts. She said a proposed replacement rule should be released for comment by next spring.

EPA also will set new limits on mercury emissions, according to McCarthy. Technology is now available that can cut utilities’ mercury emissions by 90%, the official reasoned, and given the harmful health impacts of mercury, those facilities should be modified to incorporate that technology. Moreover, she said the mercury emissions reductions will be driven by actual facility changes and not the product of an emissions trading scheme.

McCarthy also stressed the importance of EPA’s recently issued greenhouse gas emissions reporting rule. Describing the new



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requirements as a "sleeper rule," she predicted that they could result in significantly lower greenhouse gas emissions as utilities work to avoid being reported by *The Wall Street Journal* and other major media outlets as among the nation's top 10 air polluters.

"It will be interesting to see how the industry responds" and what steps utilities will take when actual greenhouse gas emissions numbers are published and "they figure out how to be lower on the totem pole of top 10 emitters," McCarthy said.

McCarthy further acknowledged that EPA would release an endangerment finding "very soon," despite congressional concerns. If affirmed, she said, such a finding would pave the way for other proposed regulations, such as greenhouse gas emission standards for automobiles and permitting requirements for large industrial sources.

The key point, according to McCarthy, is that the new rules and regulations must be part of a comprehensive vision of how to obtain and maintain clean air standards, as opposed to individual pollutant-by-pollutant approaches. An approach that is not comprehensive will only lead to wasted utility investment dollars because utilities will install certain facility assets to meet the requirements of one pollutant standard, but then those assets will become stranded when the utility is forced to install even more equipment to meet another new emissions standard.

Finally, McCarthy called on federal and state regulators, environmental groups and utilities to work together to create practical power sector emissions controls while also avoiding unacceptable costs. One step that should be taken in that regard is to eliminate subsidies for high-pollutant technologies, McCarthy said.

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## Competitive Enterprise Institute to file suit to block EPA endangerment finding

by [Kathleen Hart](#)

Just hours after the U.S. Environmental Protection Agency finalized its finding that carbon dioxide and other greenhouse gas emissions endanger public health and welfare and must be regulated under the Clean Air Act, the Competitive Enterprise Institute said it will file suit in federal court seeking to overturn the finding.

"EPA is clinging for dear life to the notion that the global climate models are holding up," said Sam Kazman, CEI general counsel. "In reality, those models are about to sink under the growing weight of evidence that they are fabrications."

"Today's decision by EPA will trigger costly and time-consuming permitting requirements for tens of thousands of previously unregulated small businesses under the Clean Air Act," Marlo Lewis, CEI senior fellow, said in a Dec. 7 news release. "The sensible solution would be for Congress to pass legislation, such as that proposed by Rep. Marsha Blackburn of Tennessee that would pre-empt the EPA from regulating carbon dioxide and other greenhouse gas emissions."

CEI argued that the EPA has ignored "major scientific issues, including those raised recently in the Climategate fraud scandal."

The climate science scandal began when several years of e-mail correspondence and documents were illegally obtained from the respected U.K. Climatic Research Unit at the University of East Anglia and posted online. Some of the e-mails suggest that prominent climate researchers were slanting the scientific data to support their

theory that man-made emissions of carbon dioxide are causing a dangerous increase in the Earth's temperature.

The United Nations has decided to investigate the climate scandal. Several Republican lawmakers have called on the Obama administration and Democratic leaders in Congress to conduct investigations into whether key climate scientists were manipulating temperature data to bolster their theory of global warming.

Reps. Joe Barton, R-Texas, ranking member of the House Energy and Commerce Committee, and Greg Walden, R-Ore., ranking member of the committee's Oversight and Investigations Subcommittee, wrote letters to Energy Secretary Steven Chu and Commerce Secretary Gary Locke on Dec. 2 seeking a "full accounting of any role the agencies played in funding, in handling [Freedom of Information Act] requests and in data sharing."

Sen. James Inhofe, R-Okla., ranking Republican on the Senate Environment and Public Works Committee, who has for years called the theory of man-made global warming a "hoax," has asked the committee's chairman, Sen. Barbara Boxer, D-Calif., to hold a hearing on the e-mail scandal. Inhofe and Sen. David Vitter, R-La., ranking Republican on the Senate Commerce, Science and Transportation Committee's Subcommittee on Science and Space, sent a letter to the inspector general of NASA requesting an investigation into NASA's "apparent obstruction" of FOIA requests. The FOIA requests seek NASA's temperature record and agency e-mails concerning changes agency researchers made to the temperature record in 2007.

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## Pepco Holdings *continued*

functions to ensure that it meets the needs of its customers."

PHI also said as the existing contracts expire, the operating revenue, operating expense and operating income of the retail energy supply business will diminish. "PHI expects the retail energy business to remain profitable based on its existing contract backlog and its corresponding portfolio of wholesale hedges through December 31, 2012, with minimal losses beyond that date primarily reflecting estimated general and administrative expenses necessary to perform fully the remaining contracts in excess of estimated revenues from those contracts."

As of Nov. 30, Pepco Energy Services' supply obligations for future delivery of energy to retail customers consisted of roughly 24.9 million MWh of electricity and 113 billion cubic feet of natural gas for the period Dec. 1, 2009, through May 31, 2014. PHI also said roughly 52% of the retail electric backlog and 50% of the retail natural gas backlog will be delivered to retail customers by Dec. 31, 2010; an aggregate of 79% of the retail electric backlog and 78% of the retail natural gas backlog will be delivered by Dec. 31, 2011; and an aggregate of 95% of the retail electric backlog and 95% of the retail natural gas backlog will be delivered by Dec. 31, 2012. Substantially all of Pepco Energy Services' retail customer obligations will be fully performed by June 1, 2014, PHI said.

In connection with the operation of the retail energy supply business, as of Nov. 30, Pepco Energy Services had collateral requirements, based on existing wholesale energy purchase and sale contracts and current market prices, of about \$315 million committed to its wholesale energy suppliers. Of that collateral amount, \$186 million was in the form of letters of credit and \$129 million was posted in cash, PHI added. Pepco Energy Services estimates that at current market prices, with the wind-down of the retail energy supply business, the collateral will be released as follows: 57% by Dec. 31, 2010; an aggregate of 85% by Dec. 31, 2011; and an aggregate of 95% by

Dec. 31, 2012. Substantially all collateral will be released by June 1, 2014, PHI added.

Pepco Energy Services will record a pretax impairment charge in the fourth quarter with respect to its retail energy supply business of about \$4.3 million, reflecting the write-off of all goodwill allocated to the business. PHI also said Pepco Energy Services will record a pretax charge in the fourth quarter related to employee severance expenditures of roughly \$700,000. Pepco Energy Services' net income for the nine months ended Sept. 30 was about \$32 million. PHI also said Pepco Energy Services' remaining line of business — principally providing energy savings performance contracting services to federal, state and local government customers — will not be affected by the wind-down of the retail energy supply business.

In a statement SNL Energy obtained on Dec. 7, PHI said: "While our energy supply business has been profitable, it has a relatively high need for liquidity, so that's the first point. Because of this, PHI has decided to exit the business and focus on our capital resources on growing the core distribution and transmission businesses, and, as a result, PHI has determined that this is our optimal path to an orderly wind-down."

**COMPANIES REFERENCED IN THIS ARTICLE:**

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**EPA** *continued*

increasing ocean temperatures, rising sea levels, and changing patterns of ecosystems and wildlife. "This administration will not ignore science or the law any longer," she said.

While Jackson supports legislation aimed at addressing climate change, she does not see action by Congress ruling out a continued regulatory role for the EPA.

"I stand firm in my belief that legislation is the best way to move our economy forward on clean energy and to address climate pollution," Jackson said. "I do not believe this is an 'either/or' proposition. I actually see this as a 'both/and' [proposition]. I believe the Clean Air Act can complement legislative efforts."

Jackson declined to provide a timeline for the next rule the agency might propose on CO2 emissions from power plants and other large emitters of greenhouse gases. "I have not laid out a timeline and certainly I respect, and will make sure that we are watching and working with Congress in their legislative efforts."

When asked about doubts raised by unauthorized scientists' e-mails that were posted on the Internet recently, Jackson responded, "There is nothing in the hacked e-mails that undermines the science upon which this decision is based." The climate science scandal began after several years of e-mail correspondence and documents from the respected U.K. Climatic Research Unit at the University of East Anglia in Great Britain were illegally obtained and posted online. Some of the e-mails suggest that prominent climate researchers were manipulating scientific data to support their theory that CO2 emissions are causing a dangerous increase in the Earth's temperature.



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Jackson said the e-mails from the Climatic Research Unit “were one thread, looking at one data set” out of thousands showing that climate change is happening and that it is caused by man-made emissions.

### Inhofe: US action alone will have no effect on global temperature

Sen. James Inhofe, R-Okla., ranking Republican on the Senate Environment and Public Works Committee, said the EPA’s endangerment finding “will lead to a wave of new regulations and bureaucracy that will wreak havoc on the American economy, destroy millions of jobs, and force consumers to pay more for electricity and gasoline.”

Inhofe noted that the United Nations Intergovernmental Panel on Climate Change has decided to investigate the scientific scandal growing out of the leaked e-mails from the Climatic Research Unit.

“The UN is investigating it; leading academic and scientific institutions are investigating it; and I am investigating it. Yet, Democratic leaders in Congress and the Obama Administration have dismissed it,” he said in a Dec. 7 statement.

In addition, Inhofe argued that the endangerment finding “will have virtually no impact on global warming. That’s because India and China, two of the world’s leading emitters of CO2, are left out. ... So, our jobs and our emissions will move to countries that have few if any environmental requirements. Don’t take my word for it; just ask EPA Administrator Jackson, who said ‘U.S. action alone will not impact world CO2 levels.’”

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