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ACTION OFFICE:

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AFFILIATION:

NARUC

ADDRESSEE:

Commissioners (ExecSec Box)

SUBJECT:

Washington Action Alert - Climate Change Legislation - Lieberman-Warner Bill (S.2191)

ACTION:

Information

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SECY 017

SECY06

From: Chris Mele [cmele@naruc.org]
Sent: Wednesday, May 14, 2008 10:42 AM
To: NARUC Commissioners
Subject: [naruc-members] Washington Action Alert - Climate Change Legislation
Attachments: LiebWarn Climate ltr Final 4-21-08.pdf

Importance: High

[Reply to reply only to the message author, Reply All to include the entire list.]

WASHINGTON ACTION ALERT

TO: All Commissioners
FROM: Commissioner Mignon Clyburn, Chair NARUC Washington Action Committee
RE: Lieberman-Warner Climate Legislation

Climate legislation is currently scheduled for Senate floor action in early June. State Commissions have an opportunity to make important changes in the Lieberman-Warner Bill (S. 2191). Whether or not the L-W bill passes this year, NARUC seeks to modify critical provisions to provide for end-use consumers to receive the benefits of no-cost emissions allowances under this legislation thereby setting the stage for the next Congress.

In order to get our "marker down," NARUC sent the attached letter to the entire US Senate on April 21 regarding the Lieberman-Warner climate legislation reflecting recently adopted resolutions on climate policy. On behalf of the Washington Action program, I am respectfully requesting that each Commissioner/Commission send a similar letter to their respective Senators.

Consistent with NARUC policy, Lieberman-Warner would provide an allocation of no-cost allowances within the electricity sector as a transitional measure, assuming the adoption of a cap & trade mechanism for carbon emissions from power plants. However, State regulators are concerned about the following provisions of this legislation:

- Lieberman-Warner's method for allocating no-cost allowances to the electric sector will benefit certain companies at the expense of end-use electricity consumers. Most importantly, NARUC urges that any no-cost allowances for the electricity sector be allocated exclusively to regulated Local Distribution Companies (LDCs) on behalf of end-use customers in order to ensure that end-use electricity customers receive maximum benefits to offset higher electricity costs.
- Unfortunately, Lieberman-Warner, as currently drafted, allocates 19% of initial allowances to generation owners, but only 9% to LDCs.

- In order to apportion no-cost allowances equitably based on regional cost impacts, NARUC believes they should be assigned primarily according to historic levels of CO₂ emissions for the generation serving each LDC.

Please note that in NARUC's letter, the word "primarily" was inadvertently omitted on the second page in the fourth full paragraph of that page, second sentence. NARUC policy supports the assignment of no-cost allowances based "primarily" on the level of GHG-emissions from the resources used to provide service to the local distribution companies' load, a position that NARUC continues to emphasize in meetings with Congressional staff.

In recognition of NARUC's diversity, individual State commissions may of course express their own positions which may differ from NARUC's. We request, however, that your letter emphasize policy positions on which State commissions agree.

Thank you for any assistance you can provide to NARUC's Washington Action Program. Should you have any questions, please contact Chris Mele (202-898-2206) or Chuck Gray (202-898-2208) at NARUC.

Chris Mele
NARUC
Legislative Director, Energy
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202-898-2206
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Subject: [naruc-members] Washington Action Alert - Climate Change Legislation

Date: Wed, 14 May 2008 10:41:38 -0400

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X-MS-Has-Attach:

X-MS-TNEF-Correlator:

Thread-Topic: Washington Action Alert - Climate Change Legislation

Thread-Index: Aci10J3eooNw0p69SlqrUT8rCYU2VA==

X-Priority: 1

Priority: Urgent

Importance: high

From: Chris Mele <cmele@naruc.org>

To: "NARUC Commissioners" <naruc-members@naruclist.org>

List-Unsubscribe: <mailto:leave-1175108-

27581.488040033894d00123c7afa479a90bc5@naruclist.org>

Reply-To: "Chris Mele" <cmele@naruc.org>

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N A R U C
National Association of Regulatory Utility Commissioners

April 21, 2008

The Honorable Joseph Lieberman
Chairman
Subcommittee on Private Sector and
Consumer Solutions to Global Warming
and Wildlife Protection
U.S. Senate
Washington, D.C. 20510

The Honorable John Warner
Ranking Member
Subcommittee on Private Sector and
Consumer Solutions to Global Warming
and Wildlife Protection
U.S. Senate
Washington, D.C. 20510

The Honorable Barbara Boxer
Chair
Committee on Environment and
Public Works
U.S. Senate
Washington, D.C. 20510

The Honorable James Inhofe
Ranking Member
Committee on Environment and
Public Works
U.S. Senate
Washington, D.C. 20510

RE: S. 2191, "America's Climate Security Act"

Dear Chairman Lieberman, Ranking Member Warner, Chairman Boxer, and Ranking Member Inhofe:

On behalf of the National Association of Regulatory Utility Commissioners (NARUC), I am writing you today regarding S. 2191, "America's Climate Security Act." NARUC is an association representing the State public service commissioners who regulate essential utility services throughout the country. Our members are charged with protecting the public and ensuring that rates charged by regulated utilities are fair, just, and reasonable.

NARUC commends Chairman Lieberman and Ranking Member Warner for introducing this important legislation. Lieberman-Warner, as it is currently drafted, is consistent in a number of important respects with NARUC's policy position on federal climate policy.

Our Association supports the enactment of federal legislation to limit greenhouse gas (GHG) emissions provided that such legislation relies, to the extent practicable, on appropriate market mechanisms as part of an economy-wide approach to GHG regulation; provides for an appropriate transition period prior to the implementation of full regulation of GHG emissions; and creates sufficient certainty to ensure the financing of needed energy infrastructure consistent with the legislation's environmental objectives. NARUC believes that enactment of such federal legislation will help remove existing uncertainties that are hampering State regulators and the utility industry in their transmission and generation investment decisions.

Should Congress decide to limit carbon dioxide emissions through a declining cap, as contemplated in Lieberman-Warner, NARUC believes the allocation of no-cost allowances within the electricity sector is an appropriate transitional measure to ensure continued reliability,

RE: S. 2191, "America's Climate Security Act"

April 21, 2008

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minimize economic dislocation resulting from the carbon intensity of existing electricity generation infrastructure, and allow development of appropriate new technology.

However, NARUC is concerned by two important provisions in the allowance system proposed in Lieberman-Warner. First, NARUC concludes that the legislation's method of allocating allowances to the electricity sector will benefit certain companies at the expense of end-use electricity customers. In order to ensure that end-use electricity customers receive maximum benefits to offset higher electricity costs, NARUC urges that any no-cost allowances for the electricity sector be allocated exclusively to regulated Local Distribution Companies (LDCs) on behalf of end-use customers. Unfortunately, the legislation allocates 19 percent of the total initial no-cost allowances to generation owners and only 9 percent to Local Distribution Companies (LDCs) (which the bill refers to as "Load-Serving Entities (LSEs)," as explained below).

Furthermore, NARUC is concerned about equity among generation owners. The allocation scheme in the legislation will provide an opportunity for generation owners in restructured markets to receive a substantial economic advantage relative to generators in traditionally regulated markets.

Should no-cost allowances be allocated to generation owners who sell at market prices, such as in restructured States, State commissions will be unable to prevent the full value of those allowances from being charged to end-use customers in the form of higher prices, while providing windfall profits for generation owners. In traditionally regulated States, however, commissions will be able to cushion end-use customers against higher prices by assigning the value of no-cost allowances to reduce rates or provide services such as energy efficiency and/or low-income assistance programs. This inequity can be rectified by allocating all no-cost allowances to the regulated LDCs, thus giving State utility commissions in both restructured and traditionally regulated States control over how revenues from the allowances would be used. Unregulated LDCs, such as municipally- and cooperatively-owned utilities, could similarly control how the benefits of no-cost allowances are provided to their customers.

Second, NARUC is concerned that the S. 2191 proposal to apportion LDC allowances based on each company's electricity sales could disproportionately benefit certain utilities and regions that have low historic emissions of carbon dioxide (CO₂). In order to apportion no-cost allowances equitably based on regional cost impacts, we believe they should be assigned according to historic levels of CO₂ emissions for the generation serving each LDC.

As a technical matter, NARUC respectfully requests that the term "Load-Serving Entity" as defined in the legislation be replaced with "Local Distribution Company" as the recipient of allowances to be used for the benefit of end-use customers. In regulatory parlance, "LSE" has a different meaning than "LDC," and many LSEs are not subject to State commission price regulation. The term "LDC" is more consistent with the definition used in the legislation to describe "LSE."

Chairman Lieberman, Ranking Member Warner, Chairman Boxer, and Ranking Member Inhofe, unlike other stakeholders who advocate for the allocation of no-cost allowances for certain

RE: S. 2191, "America's Climate Security Act"

April 21, 2008

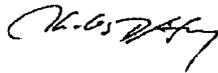
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economic interests, NARUC and its members simply ask that the economic benefits of allocating these allowances be accrued by all end-use customers who will pay a significant cost of reducing electricity sector CO₂ emissions. Utility regulators, as required by State law, will ensure that the end-use customers benefit from LDCs' receipt of no-cost allowances through reduced utility bills or energy conservation programs during a transition period.

In sum, NARUC believes that the economic impact to all end-use customers could be more favorably mitigated if the LDCs receive all of the no-cost allowances during the transition years. The U.S. Environmental Protection Agency's recent analysis of the impacts of S. 2191, particularly its finding that electricity prices could increase by 44 percent over a business-as-usual case by 2030, demonstrates the importance of using no-cost emissions allocations as a partial cushion against higher utility bills.

Thank you for your consideration of NARUC's concerns. While we have addressed only two issues of concern at this time, there are and will be other provisions that need examination, evaluation and correction as this legislation moves through Congress. NARUC's members and staff are committed to working with you and your staff to address these issues.

Sincerely,



Charles D. Gray
NARUC Executive Director

CC: All Members of the U.S. Senate