

Indiana Senator Beverly Gard Testimony
Before the Clean Air, Climate Change, and Nuclear Safety Subcommittee
Committee on Environment and Public Works
United States Senate
January 26, 2005

Mr. Chairman and members of the subcommittee: Thank you for the opportunity to testify. My name is Beverly Gard and I have served as a member of the Indiana State Senate for sixteen years. I am chairman of the Senate Energy and Environmental Affairs Committee, and the Public Health Subcommittee. I serve on the Environment Committee of the National Conference of State Legislators and previously served as the committee chairman. Previously, I worked as a biochemist in the healthcare industry.

My approach has been to balance the need for cleaner air and water with our responsibility to promote economic growth, jobs and opportunity for the citizens of my state. I believe very strongly that such a balance can be found. It is possible to both promote a cleaner environment and ensure a healthy economy. I'm pleased to testify today on legislation that I believe strikes that appropriate balance and I appreciate the opportunity to share my views.

I am pleased to see that the committee is, again, considering a multi-emissions approach which, if properly crafted, would result in the largest power plant emissions reduction program in history. Multi-emissions legislation enjoys the support of a diverse group of organizations such as the National Governors Association, the National Association of Counties and the Environmental Council of States. It has also garnered support from labor organizations such as the International Brotherhood of Electrical Workers and the United Mineworkers of America and business groups such as the U.S. Chamber and the National Association of Manufacturers.

This range of support indicates to me that the multi-emissions approach hits that "sweet spot" – it's both good for the environment and the economy. That's critical to a state like Indiana where our opportunity to grow economically is directly linked to the ability of our state's electricity providers to keep costs competitive.

In Indiana, approximately 95 percent of the electricity generated comes from coal-fired power plants, second only to West Virginia. This compares to 70 percent for all upper Midwest states and 52 percent for the national average. Indiana has the 9th lowest retail electricity prices in the nation and 24 percent below the national average. Indiana utilities consume over 48 million tons of coal a year with over 32 million tons of that coal coming directly from Indiana mines.

Yet, since the Clean Air Act was last amended in 1990, SO₂ emissions are down over 45 percent, and NO_x have been reduced by roughly 70 percent. The state's utilities have spent in excess of \$3 billion to reduce emissions since 1990 and the utilities in the state

have recently estimated that they may have to spend \$3 billion more to comply with new pending EPA regulations.

Today, nearly 15 years after the passage of the 1990 Clean Air Act, Americans are enjoying significantly better air quality, not at an insignificant cost, but at a price our economy has been able to bear. So, if the Act has worked why do we need a new multi-emissions bill?

The answer is litigation and uncertainty. The Act includes multiple regulatory approaches to reduce the same emissions. In addition, despite the onset of regulations, those regulations will be in court - creating uncertainty for the states that must comply with non-attainment designations already made and for the utilities that must comply with whatever the final outcome might be. There is even a question in the regulations as to whether certain coal types will gain favored status over others.

But let me tell you what else is at risk. The longer rules are fought over in court, the longer the breathing public remains at risk. And, the longer the rules are in court, the more difficult the task of meeting new EPA air attainment guidelines will be - with states battling each other to secure emission reductions from sources outside their region.

However, with legislation, states are provided the roadmap to reaching these reductions. In fact, using the NO_x caps set in Clear Skies Indiana utility NO_x emissions would be reduced from 262,260 tons annually to 106,000 tons in Phase I and less than 79,000 tons in Phase II. This represents a 60% reduction in Phase I and a 70% reduction in Phase II from actual 2003 levels. Using EPA's projections for the impact of Clear Skies *all counties in Indiana* should be in attainment for ozone by the first phase in 2010.

And, under the new fine particles nonattainment designations of January 2005, 14 full counties and five partial counties in Indiana were labeled as nonattainment. Using 2001 to 2003 data from fine particle monitors in the state most counties were no more than 10 percent above the standard. With the SO₂ caps set in Clear Skies Indiana utility SO₂ emissions would be reduced from 805,000 tons annually to 253,000 tons in Phase I and less than 171,000 tons in Phase II. This represents a 69% reduction in phase I and a 79% reduction in Phase II from actual 2003 levels. Using EPA's projections for the impact of Clear Skies *all counties in Indiana* should be in attainment for fine particles by the first phase in 2010.

I would also like to spend a couple of minutes talking about another benefit that a multiple pollutant bill will provide in the form of mercury reductions. As presented, the emissions reductions required under the Clear Skies initiative will provide companies with a clearly defined and efficient market based trading program for all three pollutants. This creates planning certainty for utilities as they integrate all pollution control retrofits for all three pollutants. More importantly, from my perspective, it minimizes the financial impact to consumers. In addition, it allows mercury emissions to be addressed on a national basis, providing uniformity and consistency among the many states under a trading program run by EPA.

Multi-emissions legislation saves States environmental agencies large personnel and budget resources which would otherwise be required to develop 48 individual state programs which could be more efficiently implemented by EPA. I have heard that it takes less than 20 people at EPA to run the entire SO₂ and NO_x trading program. That level of efficiency could not be duplicated by a piecemeal approach to emissions reductions

I realize that much of the debate around multi-emissions focuses on how much and how fast. I have already outlined the significant emission reductions that will be achieved through this bill in a key coal burning state. And, while I believe that reducing mercury is extremely important, it is also imperative for Congress to recognize that there remains a debate about the role of utility emissions in reducing mercury levels in fish. Mercury as you know is transported far and wide and countries burning coal with no controls also contributes significantly to the mercury levels in the U.S.

Therefore, I am convinced that a phased in reduction over a reasonable time period will provide the impacted utilities to get the reductions they can from SO₂ and NO_x controls while providing the time needed to test new mercury specific controls. The adoption of the SO₂ and NO_x caps in Clear Skies will help Indiana remove the stigma of nonattainment and help Indiana businesses remain competitive and encourage new economic development.

Again, let me emphasize that these reductions do not come cost-free. Indiana has already experienced significant economic losses as many of you on this committee have felt in your own states. I want to emphasize that we need to ensure that caps which are enacted, are achievable without breaking the bank. I live in this state, my family lives in this state. I plead with you today that approaches to set in motion all of these controls be fair, be balanced, do not disadvantage Indiana coal or the economies that thrive on that industry, and are enacted sooner rather than later.

The planning certainty provided by a 3P legislation also sends the signal to power companies and coal companies that coal will be an important and reliable long term source of energy for our country. We have over a 250 year supply of useable coal reserves in our state alone. A manageable implementation of emissions reductions gives new clean coal technology, like IGCC and other new and clean ways to burn coal a chance to develop and mature. This will help reduce the country's reliance of foreign energy sources, improves our energy security and has the added benefit of keeping natural gas prices down.

Only Congress can take the guess work out of this public policy issue by passing legislation that sets a long-term emissions reduction schedule to make the deepest reductions in power plant emissions at the lowest possible cost to the consumer.

I would hope that the irony of arguing over specific cap levels beyond seventy percent reductions is not lost on the members of this committee nor Congress as a whole. Delay

only brings with it, continued emissions and escalating costs. Those are not things that I want to bring home to Indiana citizens. I close by asking that you work together, irrespective of political party or geography, to pass this vitally important piece of legislation.

I look forward to working with the Committee, the Administration and other key members of Congress to help make this legislation a reality.

Thank you.