ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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February 14, 2008

The Honorable James M. Andrew
Administrator
Rural Development Utilities Programs
United States Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250-0747

Dear Administrator Andrew:

I am writing to request information regarding how the Rural Development Utilities Programs/Rural Utilities Service (RUS) is addressing the financial risks associated with the construction of new coal-fired power plants without emissions controls for greenhouse gases, when RUS provides taxpayer-subsidized loans and loan guarantees for such plants. I am concerned that financing these huge new sources of greenhouse gas emissions puts taxpayer dollars at risk, as well as undermines the United States government's efforts to address global climate change by reducing greenhouse gas emissions.

RUS makes direct loans and provides loan guarantees to rural electric cooperatives and others to develop electricity generation and transmission capacity. RUS issued several billion dollars of new loans for generation and transmission in 2006 and 2007, and is authorized to provide $7 billion of such loans in FY 2008.[1] According to the Congressional Research Service, RUS currently has approximately $36 billion in outstanding loans and another roughly $400 million in loan guarantees for the electricity sector.[2] Some substantial portion of this total has financed coal-fired power plants.[3] RUS has the responsibility to ensure that there is a solid

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[1] *See* National Rural Electric Cooperative Association, Generation Update Rural Utilities Service Presentation by John Holt, Sr. Manager Generation and Fuels (Aug. 28, 2006) (powerpoint presentation); E-mail communication from Tadlock Cowan, Congressional Research Service, to Committee staff (Feb. 8, 2008).

[2] Telephone communication from Tadlock Cowan, Congressional Research Service, to Committee staff (Feb. 7, 2008).

[3] *See Federal Loans for Coal Plants Clash With Carbon Cuts*, Washington Post (May 14, 2007).

financial basis for these loans and loan guarantees and taxpayer dollars are not put at unnecessary risk.[4]

Private sector investment banks, among others, have become increasingly concerned about the financial risks of investments in new coal-fired power plants that are built without emissions controls for greenhouse gases. Such plants will produce hundreds of millions or even a billion tons of carbon dioxide emissions over their lifetimes, ranking them among the largest individual sources of greenhouse gas emissions in the U.S. economy.[5] There is an increasingly widely held expectation that the federal government will adopt legislation or regulation to cap greenhouse gas emissions from power plants within the next few years. If a carbon cap is adopted during a plant's lifetime, a coal-fired power plant with uncontrolled carbon dioxide emissions would likely face substantially higher operating costs. Such a plant would probably either have to buy emissions allowances equal to its emissions or install costly retrofit control technology, assuming that such technology is commercially available and economically viable.

Just last week, three leading financial institutions announced that they have adopted climate change guidelines to guide their investments in the power sector and address the financial risks associated with the uncertainties regarding climate change regulatory policy.[6] Citigroup, JP Morgan Chase, and Morgan Stanley adopted "Carbon Principles" and an "Enhanced Diligence" framework "to help lenders better understand and evaluate the potential carbon risks associated with coal plant investments."[7] Under this framework, before providing financing for a coal-fired power plant, these investment banks will apply conservative assumptions regarding future regulation, examine opportunities to use carbon capture technologies, and assess the plant's ability to recover future costs through rate increases, as well

[4] *See* Rural Electrification Act of 1936, 7 U.S.C. §904.

[5] *See, e.g.,* Desert Rock, Carbon Dioxide Facts (2007) (online at www.desertrockenergy project.com/carbon_facts.htm) (website) (emissions estimates for the proposed Desert Rock coal-fired power plant); U.S. EPA, *Detailed Comments on the Scoping Notice for the Draft Environmental Impact Statement (DEIS) for the White Pine Energy Station Project, White Pine County, Nevada*, 14 (June 22, 2007) (emissions estimates for the proposed White Pine coal-fired power plant).

[6] Citigroup Inc., *Leading Wall Street Banks Establish the Carbon Principles* (Feb. 4, 2008) (press release).

[7] *Id.* Citi, JP Morgan Chase, Morgan Stanley, *The Carbon Principles* (undated); Citi, JP Morgan Chase, Morgan Stanley, *The Carbon Principles: Fossil Fuel Generation Financing Enhanced Environmental Diligence Process* (undated).

as consider energy efficiency and renewable energy alternatives to the proposed project.[8] This will allow the investors to factor the financial risks of future climate change control costs into their initial assessment of the projects' financial viability.

Specifically, the banks will "use conservative base assumptions in financial models of the proposed plant, including a mandatory declining cap with zero allocation of allowances or other similarly financially conservative regulatory scenarios."[9] The banks will examine the "carbon capture capability of the technology, including economic evaluation of carbon capture installation or retrofit," as well as the potential for geologic storage of the carbon dioxide.[10] They will also evaluate whether the plant owner would be able to raise its rates sufficiently to cover the cost of buying emissions allowances to the extent necessary.[11]

Private sector investment banks and many electric power providers are recognizing that significant regulatory carbon controls are highly likely to be imposed in the near future, and they are accounting for those costs in their financial calculations. I am concerned, however, that RUS may not be applying similar safeguards when it loans out taxpayer dollars. Encouraging new uncontrolled coal-fired power plants to be built without adequately accounting for future carbon control costs raises the risks of both loan defaults and large and unanticipated rate increases for rate-payers. Obviously, recouping carbon-related costs through large rate increases would harm economic development, which is the central purpose of the RUS program, while extensive defaults would threaten RUS's ability to continue providing these loans.

In addition to these broader issues, I have particular concerns regarding RUS's role in the development of the Sunflower Electric Power Corporation's proposed new coal-fired power plant units at Holcomb Station. The Department of Justice recognizes that Sunflower is "a financially troubled borrower," which owes the federal government roughly $200 million in loans for an existing plant at Holcomb Station.[12] Sunflower and its partners are now proposing

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[8] Citi, JP Morgan Chase, Morgan Stanley, *The Carbon Principles: Fossil Fuel Generation Financing Enhanced Environmental Diligence Process*, 7-9 (undated). *See also Wall Street Shows Skepticism Over Coal*, Wall Street Journal (Feb. 4, 2008).

[9] Citi, JP Morgan Chase, Morgan Stanley, *The Carbon Principles: Fossil Fuel Generation Financing Enhanced Environmental Diligence Process*, 7, 9 (undated).

[10] *Id.* at 8-9.

[11] *Id.* at 7, 9. *See also Wall Street Shows Skepticism Over Coal*, Wall Street Journal (Feb. 4, 2008).

[12] Defendants' Motion to Dismiss, 3 and attachment 4, part J, 3 (Jan. 31, 2007) *Sierra Club v. U.S. Dept. of Agriculture, Rural Utilities Service; Edward T. Shafer and James Andrew*, D.D.C. (No. 07-1860). After the initial loan was provided in 1980, Sunflower was unable to pay

to take on billions of dollars in additional private sector debt to construct a huge new $3.6 billion coal-fired power plant at Holcomb, comprised of two new units.[13] The expanded plant is projected to release 11 million tons of carbon dioxide annually, which would amount to over 500 million tons of carbon dioxide over its lifetime.[14]

According to the terms of the original loan, Sunflower is not allowed to take on new debt without RUS's permission.[15] This condition is intended to allow RUS to protect the government's interest in having the original loan repaid.[16] RUS granted Sunflower permission to take on this much larger additional debt in July 2007.[17] Prior to granting its permission, RUS presumably analyzed the increased risk of default on the loans it holds. I am concerned, however, that RUS may not have accounted for the risk of substantial additional costs associated with the new plant's massive greenhouse gas emissions. If RUS failed to take this into account, it has put both taxpayer funds and Kansas ratepayers in jeopardy. If this plant is built, Kansas ratepayers may be stuck with billions of dollars in stranded assets and sky-rocketing costs for power.

To help the Committee evaluate RUS's actions in this area, please provide the following information:

1. Identify the total amount of RUS's outstanding loans and loan guarantees for electric power. Please provide separate figures with respect to: (a) loans; and (b) loan guarantees for this response and each of the following questions that requests information about loans and loan guarantees.

2. Identify RUS's total amount of outstanding loans and loan guarantees for coal-fired power plants with uncontrolled greenhouse gas emissions.

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its debt to the government and had to have its loan restructured in 1987. The loan was restructured again in 2002. *Id.*

[13] *See Sunflower Pushes to Expand Coal Plants*, Associated Press (Feb. 4, 2008) (http://news.moneycentral.msn.com/category/topicarticle.aspx?feed=AP&Date=20080204&ID=8117719&topic=TOPIC_ECONOMIC_INDICATORS&isub=3).

[14] Kansas Department of Health and Environment, KDHE Denies Sunflower Electric Air Quality Permit (Oct. 18, 2007) (online at www.kdheks.gov/news/web_archives/2007/10182007a.htm) (press release).

[15] *Supra* note 10 at 3.

[16] *Id.*

[17] *Supra* note 10 at 7 (citing RUS Consent Letter) (July 26, 2007).

3. Identify the number and amount of new loans and loan guarantees that RUS provided each year for electric power, starting in 2001.

4. Identify the number and amount of new loans and loan guarantees that RUS provided each year, starting in 2001, for coal-fired power plants with uncontrolled greenhouse gas emissions. Identify each specific coal-fired power plant that received such a loan, the size of each plant, when the plant began operation or will begin operation, and the estimated quantity of annual greenhouse gas emissions from each plant.

5. Identify the amount of new loans and loan guarantees that RUS projects it will provide each year for electric power over the next 10 years (or for whatever period for which RUS has made such projections).

6. Identify the amount of new loans and loan guarantees that RUS projects it will provide each year for coal-fired power plants with uncontrolled greenhouse gas emissions over the next 10 years (or for whatever period for which RUS has made such projections).

7. Identify each specific coal-fired power plant project for which RUS is currently considering providing financial support. For each plant, please include the name, location, size, total cost, projected schedule for construction and beginning operation, quantity of loans or loan guarantees requested, status of RUS's consideration of the loan request, whether the plant will include technology to control greenhouse gas emissions, and its projected quantity of annual and lifetime greenhouse gas emissions.

8. Explain whether prior to providing a loan or loan guarantee for the construction of a new coal-fired power plant without greenhouse gas emission controls, RUS routinely analyzes the financial risks associated with the potential for regulation of greenhouse gas emissions.
   a. If RUS routinely conducts such an analysis, describe the analysis. Include details on the following:
      I. The assumptions RUS makes about the likelihood, timing and stringency of such regulation;
      II. The assumptions RUS makes about the quantity of emission allowances, if any, that the government might provide to each plant free of charge; and
      III. The assumptions RUS makes about the price per ton of carbon.
   b. If RUS does not routinely conduct such analysis, explain why not. Please state whether you will commit to conduct such analysis for all loans and loan guarantees that have not yet been finalized. If you will not make such a commitment, please explain why not.

9. Indicate whether RUS analyzed the financial risks associated with the potential for regulation of greenhouse gas emissions with respect to the proposed new Sunflower plant.
    a. If RUS conducted such analysis, please provide that analysis.
    b. If RUS did not conduct such analysis, I request that you do so now to provide a better understanding of the security of the government's outstanding loans to Sunflower. Please provide that analysis to the Committee when it is completed.

10. Indicate whether RUS analyzed the possible electricity rate impacts for Sunflower's customers associated with the potential for regulation of greenhouse gas emissions with respect to the proposed new Sunflower plant.
    a. If RUS conducted such analysis, please provide that analysis.
    b. If RUS did not conduct such analysis, I request that you do so now to provide a better understanding of the rate impacts of Sunflower's proposal to invest in new coal plants. Please provide that analysis to the Committee when it is completed.

11. State whether RUS has considered or analyzed the potential effects of providing financing for new coal-fired power plants with uncontrolled greenhouse gas emissions on the Administration's overall climate policies, efforts, and goals.
    a. If RUS has considered such effects, please explain the results of such consideration and analysis.
    b. If RUS has not considered such effects, please explain why not.

Please provide the requested information by February 28, 2008. If you have any questions concerning this request, please have your staff contact Alexandra Teitz of the Committee staff at (202) 225-4407. Thank you for your assistance in this matter.

Sincerely,

Henry A. Waxman
Chairman

Jim Cooper
Member of Congress

cc: Tom Davis
Ranking Minority Member