Testimony before the
United States House of Representatives
Committee on Energy and Commerce
Honorable Mr. Henry Waxman, Chairman

on the draft "American Clean Energy and Security Act"

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Chairman Waxman, Chairman Markey, and Members of the Committee, thank you for inviting me to testify today on the draft bill, "the American Clean Energy and Security Act of 2009." My name is Myron Ebell, and I am director of energy and global warming policy at the Competitive Enterprise Institute (CEI), a non-profit, non-partisan public policy institute that focuses on regulatory issues from a free-market and limited-government perspective. CEI has been actively involved in energy and global warming issues for two decades. President and founder Fred Smith attended the 1992 Earth Summit in Rio de Janeiro, where the United Nations Framework Convention on Climate Change was negotiated, and the Third Conference of the Parties in 1997 in Kyoto, Japan, where the Kyoto Protocol was negotiated. As an accredited NGO, I and several of my colleagues have attended a number of the succeeding Conferences of the Parties to the UNFCCC. Over the years, CEI has issued policy papers and been involved in the public policy debate on most of the major issues related to energy and global warming.

Just to be clear about where we stand, CEI opposed ratification of the Framework Convention and the Kyoto Protocol. We also oppose all domestic measures to ration energy through mandates or taxes. This includes the draft bill, which is the subject of today's hearing. Each and every title is fundamentally misguided. In our judgment, the American Clean Energy and Security Act cannot be improved enough to warrant enactment. It should not be introduced. If it is introduced, it should be defeated.

Let me begin with the largest single item in the bill, the cap-and-trade regime that is roughly sketched out in Title III of the draft. Cap-and-trade has been widely sold as a "market-based approach" to reducing emissions. This is terribly misleading. Cap-and-trade subordinates markets to central planning. It takes the most important economic decisions out of the hands of private individuals acting in the market and puts them in the hands of government. The record of central planning in the twentieth century has not been judged a success, and most centrally-planned economies collapsed towards the end of the last century. Perhaps the advocates of cap-and-trade can find some glimmer of hope in the persistence of Cuba and North Korea, which are both models of economies that have commendably low, indeed negligible, greenhouse gas emissions.

If enacted, Title III's cap-and-trade regime would be the single largest government intervention in the economy and in people's lives since the Second World War. That was the last time—and we hope it remains the last time—when people had to present ration coupons in order to buy gasoline (and many other products including cars, tires, sugar, coffee, meat, cheese, butter, and shoes). While the debate has focused on costs, far too little attention has been paid to the extent that political and economic freedoms would be lost or impinged upon under a cap-and-trade regime. I urge the Committee and the House to consider seriously and deeply the threat to our liberties posed by putting government in charge of how much and what type of energy we can consume.

Economists have generally agreed that cap-and-trade cannot force reductions in greenhouse gas emissions as efficiently as would a carbon tax, but a great deal of ingenuity has been expended in trying to fashion a cap-and-trade regime which would closely approximate the effects of a tax. The fact is that cap-and-trade is an indirect, hidden, sneaky tax. If Title III or something like it were enacted, it would probably be the biggest tax increase in the history of the world. Or as Senator Benjamin Cardin recently remarked, cap-and-trade is "the most significant revenue-generating proposal of our time." This can be disputed merely because there is no way of knowing how expensive it will be to cut emissions.

The initial evidence from the countries that ratified the Kyoto Protocol and thereby undertook solemn, binding (but unenforceable) commitments to reduce their emissions suggests that the costs are going to be extremely high. For example, gasoline taxes in major European Union member nations are now three to four dollars a gallon. This translates roughly into three to four hundred dollars per ton of carbon dioxide. Yet according to the European Environment Agency, greenhouse gas emissions in the transportation sector increased 26% in the EU-15 between the Kyoto baseline year of 1990 and 2006.

Many promoters of cap-and-trade have claimed that the costs will turn out to be much lower than mainstream economic models have predicted. A few have even claimed that cap-and-trade will be a net benefit to the economy. In reality, the costs of cap-and-trade to consumers will be much higher than the net loss of GDP predicted by the models. As Fred Smith, President of CEI, discussed in his February 13, 2007 testimony before the Senate Committee on Environment and Public Works, the deadweight loss to the economy (expressed in lower GDP) does not include cap-and-trade's much larger wealth transfer effects.

The fact is that for many advocates, the primary attraction of cap-and-trade appears not to be reducing emissions, but rather the promise of colossal transfers of wealth from consumers to big business special interests and to government. The European Union's Emissions Trading Scheme is highly instructive on this point, as a major study by Open Europe, Europe's Dirty Secret: Why the EU Emissions Trading Scheme Isn't Working, shows in exhaustive detail. Emissions covered under the ETS have not declined, but electricity rates have increased significantly in most EU member countries and windfall profits have been realized by a number of companies. The price of rationing coupons has fluctuated wildly, and fortunes have been made on speculation and possibly by manipulation. My colleague, Chris Horner, has tracked the flagrant con games and corruption that are occurring under the ETS.

And that I think is why many member companies of the U. S. Climate Action Partnership support cap-and-trade legislation. They hope in one way or another to get rich at the expense of American consumers. The leading boosters for the Kyoto Protocol and for cap-and-trade in the U. S. business community were initially the late Kenneth Lay, Chairman of the Enron Corporation, and Henry Paulson, when he was Chairman of Goldman Sachs. In recent years, the principal booster in the big business community has been Mr. James Rogers, who is now Chairman of Duke Energy. Not co-incidentally, I think, Mr. Rogers worked for Enron earlier in his career. There is simply a lot of money that could be made if the Congress would enact just the right sort of cap-and-trade.

That brings me to what I consider the most disturbing thing about the Waxman-Markey draft. The official summary released by the Committee states that, "The global warming provisions in the discussion draft are modeled closely on the recommendations of the U. S. Climate Action Partnership (USCAP), a coalition of electric utilities, oil companies, chemical companies, automobile manufacturers, other manufacturers and energy companies, and environmental organizations." It should be noted that most of the environmental organizations that belong to USCAP largely serve as front groups for big business interests. Thus, the authors of the draft bill have invited the beneficiaries of what could turn out to be the biggest transfer of wealth from consumers to special interests in American history to write the rules for this legalized plunder. This is outrageous. It is like asking the foxes to design the chicken coop.

For those who persist in claiming that cap-and-trade will not raise energy prices for consumers very much, let me quote two more realistic observers. Peter Orszag, who is now head of the White House Office of Management and Budget, testified on 24th April 2008 when he was director of the Congressional Budget Office. He said: "Under a cap-and-trade program, firms would not ultimately bear most of the costs of the allowances, but instead would pass them along to their customers in the form of higher prices…. Indeed, the price increases would be essential to the success of a cap-and-trade program…." I would add only that the price increases would not be a one-time event under cap-and-trade, but would happen every year as the number of ration coupons available was reduced. And this is what then-Senator, now-President Barack Obama said in a 17th January 2008 interview: "Under my plan of a cap-and-trade system, electricity rates would necessarily skyrocket."

As for Titles I and II, I will make only two observations. While it is not at all clear that the primary purpose of the bill is to reduce greenhouse gas emissions, if that is indeed the purpose of the bill, then the specific mandates and standards in Titles I and II would be counter-productive to the working of the cap-and-trade regime created in Title III. As many economists have pointed out, a cap-and-trade regime works much more efficiently to reduce emissions if there aren't a lot of other mandates and standards that obstruct and complicate the efforts by covered entities to seek out the lowest-cost reductions. Thus instead of coupling cap-and-trade with even more specific mandates and standards, it would be much more rational to repeal all the existing specific mandates and standards, such as the Corporate Average Fuel Economy standards or the bio-fuel mandates.

My second observation on Title I is that it is all well and good to mandate a renewable energy requirement for electric utilities or a low carbon fuel standard for transportation fuels. It is quite another thing to actually meet those mandates. As a February 23rd story by Jim Tankersley in the Los Angeles Times reported, the only thing standing between green energy and reality are a series of major technological breakthroughs. The entire bill is, as my colleague Marlo Lewis often puts it, an exercise in putting the regulatory cart before the technological horse.

The American Clean Energy and Security Act would be, as another colleague, Iain Murray, has observed, a perpetual anti-stimulus program if enacted. Most of the policies in the bill are being tried in the European Union and are failing. Greenhouse gas emissions have been increasing at a faster percentage rate in most EU-15 member nations than in the United States. At the same time, a great deal of money is being spent on producing renewable energy and on energy efficiency measures. The EU undertook these expensive projects with the understanding that they would be expensive. But at the time, the EU was experiencing solid economic growth. Their calculation was that they could afford more expensive wind and solar energy and that efficiency measures would eventually pay for themselves. As a recent study by Dr. Gabriel Calzada, an economics professor at King Juan Carlos University in Madrid, has concluded, the costs of new green energy are enormous and are no longer affordable during the current severe economic downturn.

But what about California? Governor Arnold Schwarzenegger and some prominent Members of Congress from California, have touted California's energy and global warming policies as a successful model for the nation to follow. A paper published by CEI by Tom Tanton, a leading expert on California's energy policy, demonstrates the falsity of these claims in detail. California's economy is in freefall and high energy prices are one of the causes. It is true that per capita carbon dioxide emissions have remained flat in California for many years, but that result has been achieved by driving energy-intensive industries out of California. For example, only a small fraction of the vehicles sold in California every year are now produced in California. They are produced in States with lower energy prices and higher per capita carbon emissions.

The fact is that the only demonstrated method for cutting emissions significantly is economic collapse. As Czech President Vaclav Klaus has remarked, he knows how to cut emissions; they did it when communism was overthrown in Czechoslovakia. Although I doubt that Titles I, II, and III would deliver the kind of cost-effective emissions reductions that the bill's advocates claim is their goal, I do think that Title IV offers some hope for drastic emissions cuts. Provisions in Title IV would almost certainly provoke a trade war and cripple international trade. That is a recipe for the global economic collapse that could quite easily meet the fanciful targets for emissions reductions advocated, for example, by former Vice President Al Gore.