

**Statement of West Virginia Patrick Morrissey on
President Biden's Climate Plan**

April 23, 2021

Charleston, West Virginia

President Biden's promise that America will undertake radical, transformational, and too-rapid reductions in carbon emissions by the end of this decade is a colossal domestic and foreign policy blunder of epic proportions.

Fortunately, under our Constitution, these types of transformational and highly controversial changes are not dictated by the whims of one man—let alone a president. As the chief legal officer of West Virginia, I will ensure that the constitutional separation of powers is upheld and will enforce it in court, as necessary. We have been down this road before and it looks like we will go down there again.

Every West Virginian and American should be deeply concerned with this pie-in-the-sky proposal.

Meeting Biden's commitment would cause electricity costs and prices of American-made goods to skyrocket and impact nearly every aspect of American life. It would require drastic changes for homes, businesses, and factories; eviscerate good-paying union and working class jobs; and cripple our country's ability to compete on the world stage.

Biden's proposal would also greatly enhance China's strategic position at our people's expense. America would cut emissions by 50 percent yet China has stated it plans to grow without limits at the same time—even though China already emits far more than we do. At the same time, Biden's proposal would give China profound leverage over our country by making us dependent on

imports of critical rare earth minerals just to keep our lights on. Not long after America won energy independence from the Middle East, President Biden is asking us to make our ability to power our economy in the decades ahead dependent on the good graces of our greatest geopolitical rival.

Americans simply cannot afford such a self-inflicted wound to our economy and national security that goes even further than anything President Obama proposed. This is the Clean Power Plan on steroids and a whole lot more.

I. Domestic Impact

It is essential that everyone understand just how far Biden's promise reaches across every aspect of our lives, and how it will do so quickly. It stands to remake American life through federal dictates.

Usually when someone makes a promise of this magnitude, we would expect detailed, serious, and credible plans and estimates of the costs. Not here. This promise is nothing but wishful thinking.

President Biden did not tell us in his announcement how much achieving his promised target will cost because the Administration is making this enormous and unprecedented commitment to the world without having done the homework on what it will really mean. That is one of the most worrisome aspects of this, that the leader of the Free World would make a promise like this on behalf of the United States without adequate study and public vetting beforehand.

We will be working with our colleagues and commissioning these studies and analysis.

Just a few cold hard facts prove that Biden's folly requires a fundamental transformation of American life.

For instance, in 2019, this country emitted 5.25 billion tons of carbon, but Biden's promise requires the country to emit only 3.07 billion tons by 2030. There is simply no way around the sheer volume of cuts that would be required to live up to Biden's promise. That's because nearly all of the carbon dioxide emissions in this country today come from three critical parts of our economy:

- utility electric generation (30%),
- transportation (35%),
- and natural gas used for energy in homes, business, and factories (27%).

Even if the United States took all of the following radical steps by the end of the decade, we would still fall short of President Biden's promise:

- Shutdown every single coal plant and cut natural gas plant generation in half (1.28 billion tons);
- Replace 100 million passenger cars with electric vehicles (0.5 billion tons);
- Retrofit 31.25 million of the 58 million homes that use natural gas for heat with electric heat (0.1 billion tons);
- Retrofit 85 percent of the commercial buildings that use natural gas for space heating with electric heat (0.1 billion tons);

- Eliminate all fugitive carbon emissions from oil and gas development (0.08 billion tons).

This extreme commitment is premised not just on eliminating existing electric generation capacity but also on extensive and expensive electrification of an enormous amount of energy in transportation, homes, businesses, and factories. Even if, and it is an enormous if, we somehow manage to replace a third of all automobiles with electric cars, that would still leave a vast amount of additional cuts that have to come from retrofitting millions of homes, business, and factories to go from using natural gas to electricity from the power grid.

Get used to that word: electrification.

Now let's pause for a moment: Does any American actually believe that one third of the hard-working men and women of West Virginia and every other state will replace their cars with electric vehicles by 2030?

Or that the federal largesse promised will be more than a temporary substitute for the jobs of mine workers or oil and gas workers who may make 60-100k per year?

We understand year one offers to the state will be high—but we know these promises have never been met before.

Let's focus on another example.

Natural gas used for energy in homes accounts for over 6 percent of emissions. If your home today uses natural gas to keep your family warm, meeting Biden's promise will cost you dearly. We are working to determine the monthly and yearly cost for West Virginians and Americans—which we believe will be high—but we

already know this: well over fifty million American households use natural gas for heat, including three hundred thousand in West Virginia.

Do we want the EPA to assert it has the power to decide whether, how, and when these families must switch from natural gas to electricity for heating?

All three pillars of this Biden promise point in the same wrong direction for our country: Americans would have to buy more electricity at higher prices with less reliability. Getting rid of existing power plants would reduce the electricity supply, while electrifying cars and trucks and requiring homes, businesses, and factories to buy electricity instead of using natural gas for energy would greatly increase demand. All this reduced supply and increased demand would necessitate massive increases in the construction of wind farms, solar plants, and transmission lines across the country.

And when the construction of electric utility infrastructure falls behind the massive increases in need because of the revolutionary changes in the economy required to meet Biden's promise, we should expect to see even more suffering than we saw from blackouts in Texas and California. These events will be commonplace.

The American people deserve to know the truth. And the truth is that there is no way any time soon to reliably keep the lights on in every part of this large and diverse country without substantial dispatchable power from coal and natural gas power plants. Period.

Going to nearly or one hundred percent wind and solar is not a short-term option; it will require major technological

developments and build outs that will take decades, not years.

Even if we succeeded in building enough electric utility infrastructure at an unprecedented, break neck speed and we found an as-yet-undiscovered solution to the loss of dispatchable fossil fuel generation to avoid blackouts, it would come at a tremendous cost passed along to ratepayers. Such a massive increase in the cost of electricity will be devastating for individuals and American manufacturing.

Dramatically increasing the cost of energy impacts and touches every part of day-to-day life. Even today the most basic activities of daily living depend on ready access to affordable electricity—and by pushing more Americans towards electric cars and electric heaters, Biden's proposal only deepens this connection. Americans will measure this impact in their monthly power bills, but they will experience it for what it really is: an increase in the minimum cost of living. The more the very basics of life cost the less independent we can be. The less free we can be. Increasing energy costs has the same impact of increasing housing costs.

Everyone in America will feel the weight of this proposal, but rapidly ditching fossil fuels in order to meet Biden's radical goal would disproportionately hurt places like West Virginia, Wyoming, Kentucky, Montana, Ohio, New Mexico, Pennsylvania, and Alaska. I could list many other states as well.

The human impact of increased prices and massive job losses would be a tragedy, so naturally Biden promises

that his plan will create enough new jobs to more than make up for the jobs he proposes to eliminate.

But the real impact of Biden's plan can't be measured just in the jobs it would destroy. You have to consider the jobs it would suffocate.

We all know that American manufacturing has been languishing for decades, struggling to compete with the low costs and lax regulations enjoyed by manufacturing abroad. So everyone should be able to understand how that struggle will only be made worse by skyrocketing energy prices and costly retrofit requirements. As more jobs are driven offshore, employers who can stay will be forced to raise prices and sink more investment into paying their electric bill rather than growing their work force. So while both consumer goods and electricity are becoming more expensive, wages will stagnate and jobs will evaporate.

Understanding these systematic disruptions to our economy puts the lie to Biden's promise to back-fill lost jobs with new "clean" jobs. The foundation of that promise is the idea that American manufacturing will provide the equipment needed to electrify more of our economy and satisfy the new demand for electricity. But that foundation collapses under the full weight of Biden's proposal.

This isn't just proposing another dozen or another hundred Solyndra-style handouts to solar and wind manufacturers, hoping that some of them eventually translate into new and reliable jobs. He proposes to eliminate existing jobs, while undermining our economy's ability to create new jobs. You can't sow new fields after

eating your seed corn, and that is exactly what Biden's proposal would do.

Here in West Virginia, I have always been a big fan of diversification: never have all of your eggs in one basket. But you simply can't successfully diversify an economy when you kill off the main source of jobs for your state before you even begin trying to attract new ones.

There are also significant environmental downsides to a massive increase in the deployment of wind, solar, and new transmission lines as would be required to meet the Biden promise.

Replacing fossil fuel power plants with wind and solar plants expands the generation footprint. This massive undertaking to both close fossil fuel plants and to add sufficient wind and solar plants to accommodate growth in demand from the electrification of cars, homes, businesses, and factories will also require a significant amount of new transmission lines. Unlike pipelines, these large structures are not buried beneath the ground and forgotten by their neighbors after construction, they are permanent features of the landscape.

Our environment is important and we can all agree that we have to protect it. But a President deciding that we need to take steps to address climate change does not mean that we ought to do so at any cost, by any means, at any pace.

Even if a particular reduction in emissions or shift in the way we obtain energy for some purposes makes sense, that would not justify a headlong, economy-wide rush into a brave new world without regard to the costs.

II. International Impact

We also need to make these decisions with careful regard for the precarious position America occupies in the world today. It should be more obvious than ever that America's economy needs to become more independent, especially from nations that want to see us fail. America only recently achieved energy independence, freeing our economy from reliance on oil imports from totalitarian regimes. This was only possible because of our abundance of domestic fossil fuels—a blessing that Biden plans to turn his back on.

But energy independence is just one pillar of American strength that the Biden plan would erode. Think about the most powerful tool America wields today. It's not military supremacy, but economic supremacy. We currently have the largest economy in the world, which gives us incredible influence and power on the global stage.

That is why China has spared no expense trying to surpass us as the dominant global trade leader. And it's no secret that China has fueled that economic growth through fostering corruption abroad, strong-arming neighbors, and committing horrific human rights abuses against its own citizens.

Make no mistake about it: imposing the Biden plan on America would be a resounding victory for China. China has no plans to cripple its economy the way Biden is proposing to cripple ours. For example, while Biden would have the United States cut our emissions in half by 2030, China just committed to stop *increasing* their emissions by 2030. Just as we would be shuttering every single one of coal plants, China will be in the process of *building* even more coal generation capacity than we sacrifice. There is

nothing strategic about hamstringing our economy in the name of reduced emissions, only to make room for our greatest geopolitical rival to replace them.

The Biden proposal would also not only make our economy weaker, but it would play directly to China's strengths. China controls over half of the global trade for the rare earth minerals used to make car batteries, wind mills, and solar plants. Even today we find ourselves struggling with this power disparity. But any meaningful effort to meet Biden's arbitrary timelines would only make us desperate, deepening our dependence on China's industries even as we cripple our own.

Just last year, America got a harsh lesson in what happens when we depend on a rival like China at crucial moments. At the start of 2020, America imported over half of our surgical gowns, masks, and other personal protective equipment from China. But when a global pandemic made its way to our shores, China began recalling shipments and blocking exports. We learned a hard lesson then about over-dependence on foreign supply chains; we must not forget it now.

III. Our Constitution Prevents Presidents from Unilaterally Making Major Changes to Our Country.

Today, we tell the truth to the American people and all West Virginians. The United States simply cannot afford to meet Biden's promise.

Instead, the path forward must be charted by individuals, businesses, States, and Congress. Not one man—even if he is President.

Thankfully, our Constitution recognizes the risk of the overreaching federal executive, which is why top-down federal regulation requires the agreement of Congress, and why so many of the most critical decisions facing us today are left to the States and to the people, who often have a far better understanding of what is and is not feasible on the ground in the many different parts of this diverse country.

Our Constitution stands in the way of Biden unilaterally pushing the country down this terrible path. Without Congress, which has not voted on this promise and will hopefully give this new radical climate action plan the same reception it gave the Green New Deal, Biden will have to either give up or try and go it alone.

But there is no statutory authority for any federal agency to make the kind of transformative changes to the entire economy that would be required to meet this commitment.

The Constitution provides a steady anchor against such massive unilateral action. If the Biden Administration follows President Obama's lead and tries to bypass Congress, West Virginia and other States will have remedy in the courts.

Pending litigation led by West Virginia is poised to push back against any renewed attempt by the U.S. EPA to try again to force a dramatic restructuring of energy use in this country.

That case stems from President Obama's Clean Power Plan, where the agency claimed an obscure statutory

provision empowered it to decarbonize the electric utility generating sector.

After the Supreme Court stayed the Clean Power Plan in an unprecedented move and we obtained a huge respite from that overreach, President Trump's Administration repealed the rule based on its legal defects.

Unfortunately, in a divided opinion one day before President Biden's inauguration, the Court of Appeals for the D.C. Circuit agreed with the Obama Administration's legal position, despite the Supreme Court's stay.

The D.C. Circuit's decision was wrong because of a fundamental principle of constitutional law. Economy-shaping power to determine major economic and political questions and significantly alter the balance of power between the States and federal government requires clear congressional delegation and guidance. Congress has not granted the EPA or any other federal agency such power to unilaterally decarbonize the American energy economy.

Given the imminent prospect that President Biden's administration is poised to issue similar rules—this time not just one for the utility electricity sector—West Virginia will very soon file a petition for a writ of certiorari in the Supreme Court seeking a reversal of the D.C. Circuit's decision and a complete and final repudiation of the legal theories underpinning the Clean Power Plan.

When and if we prevail in that case, we will also deal a substantial blow to the even more radical Biden Climate plan.