



Warming in Washington: What's Up at EPA and in Congress?

Wyoming Mining Association
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PRESENTED BY

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GHG REGULATION: HOW MUCH PAIN?



"Sorry, Harold, but I'm reducing our carbon footprint."

Congress vs. EPA

The Go Ahead, Make My Day Theory of Governance

Cong. Markey: *"Do you want the EPA to make the decision or would you like your Congressman or Senator to be in the room and drafting legislation?... Industries across the country will just have to gauge for themselves how lucky they feel if they kill legislation in terms of how the EPA process will include them."*



Clint Eastwood
Dirty Harry

Clint Eastwood



TC

Supreme Court Massachusetts v. EPA Decision April 2007

GHGs are CAA “air pollutants” which EPA must regulate if it finds endangerment to public health or welfare

Case was in the context of GHG emissions from new motor vehicles, but precedent applies to sources across the economy

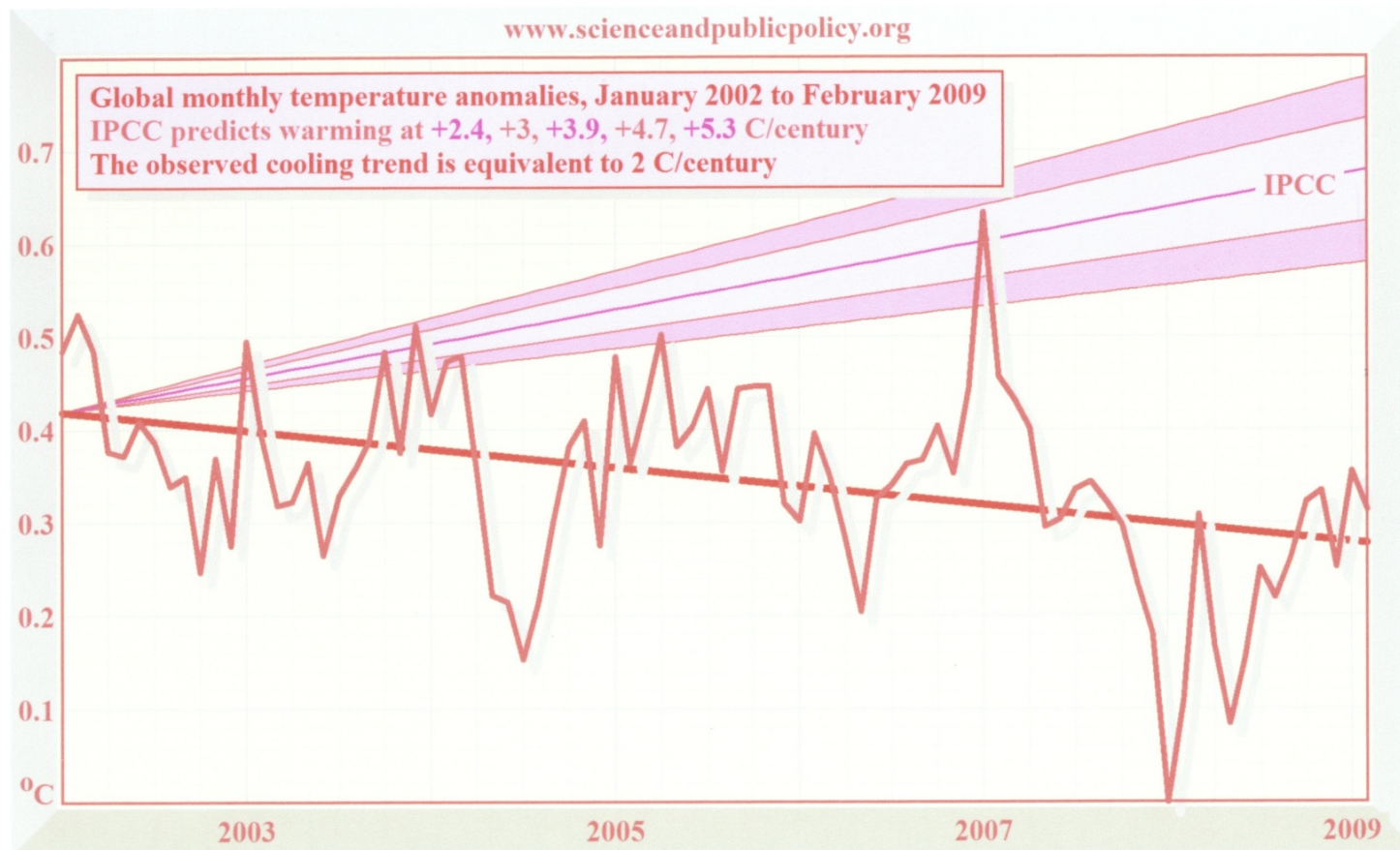


EPA Proposes Endangerment Finding on April 17, 2009

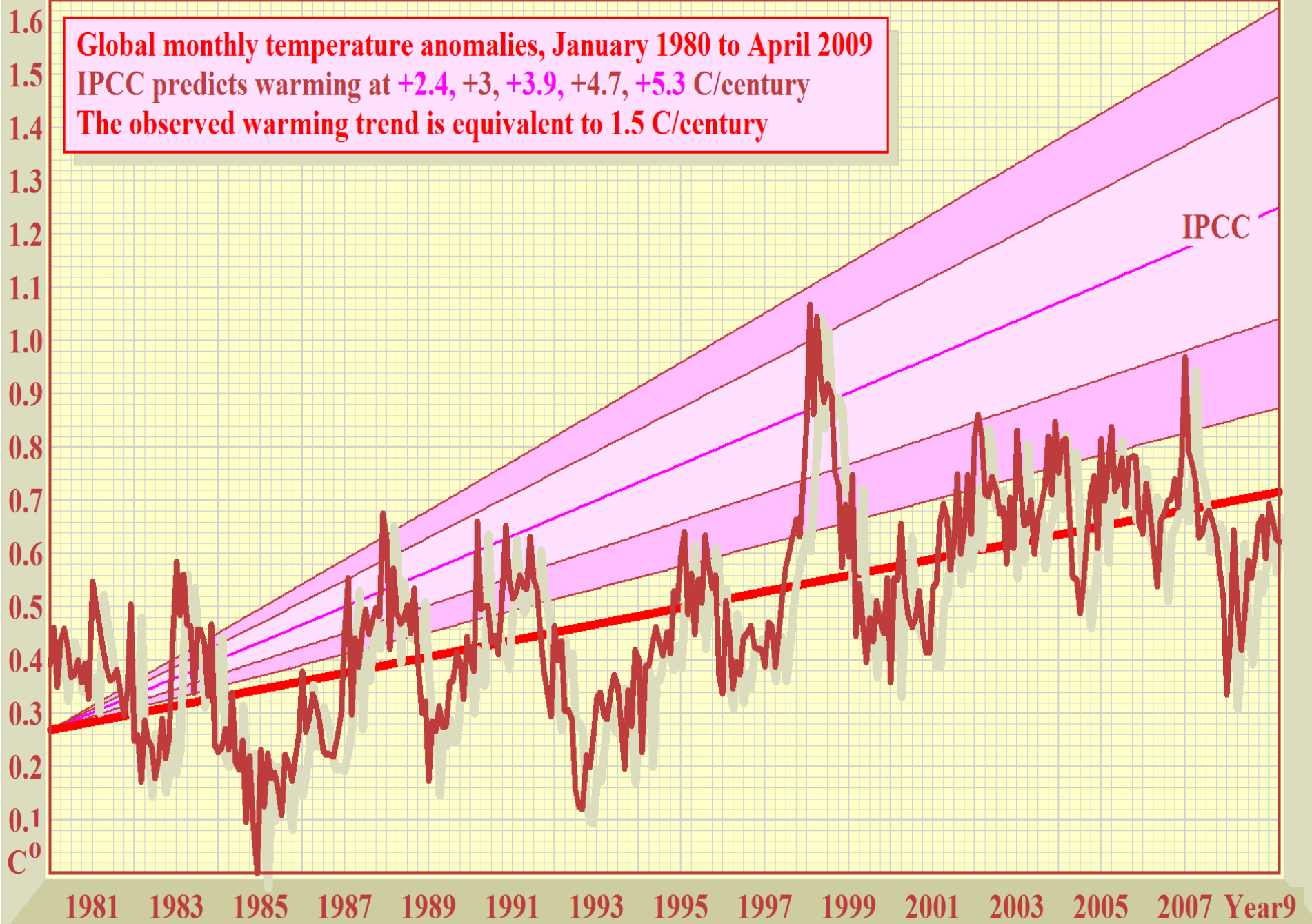
- Finds that elevated concentration of six GHGs in atmosphere constitute “air pollution” endangering both public health and welfare because of climate change effects
- Finds that four of these GHGs, including CO₂, emitted by new motor vehicles cause or contribute to this air pollution
- Does not propose regulations to control these emissions – but once endangerment finding final, EPA must regulate

→ Comments due June 23, 2009

A long, fast decline: 7 years' global cooling at 3.6 °F (2 °C) / century



For the past seven full years, global temperatures have exhibited a pronounced downtrend. The IPCC's predicted warming path (pink region) bears no relation to the global cooling that has been observed in the 21st century to date. Source: SPPI global temperature index.



What Happens Next?

President announces agreement with automakers on May 19 on motor vehicle fuel economy regulations that will include GHG regulations under CAA – actual proposal expected this Summer before endangerment finding is finalized

Endangerment finding will be finalized later this year

Auto GHG regulations will be finalized some time next year

What Happens Next?

EPA will move to set standards for large coal-fired EGUs later this year

Numerous petitions in queue to regulate GHG emissions from a variety of other sources

First Impact to EGUs Will Be NSR/PSD

- Preconstruction permit requirement for new and modified EGUs
- BACT for CO₂?
- Effective the moment EPA issues any GHG regulations, including for autos
- In fact, enviros think EGUs already subject to PSD

NSPS for EGUs

- For new EGUs
- And, eventually, for existing EGUs
- Like BACT, balance technology/cost/environment
- Efficiency – how much?
- CCS?

How Fast Can They Do an NSPS Rulemaking?

- For new units: 2 years
- For existing units: 3-4 years

Can EPA Limit GHG Regulation under CAA to Large Sources Only?

EPA and environmental organizations say that's their plan

But they have several problems, mainly:
PSD and NAAQS

- 1.2 million new regulated sources (!)





What's In Waxman-Markey?

- Cap-and-trade program for capped sources, principally large industrial sources emitting $\geq 25,000$ tpy CO₂e and accounting for 85% of U.S. GHG emissions.
- Targets and Timetables
 - 3% below 2005 when program starts in 2012
 - 17% below by 2020
 - 58% below by 2030
 - 83% below by 2050
 - Delayed compliance dates for certain industrials, NG LDCs

Allowance Allocations to EGU Sector

- 43.75% of allowances allocated at no-cost to EGU sector in 2012 and 2013
- Declining to 7% in 2029 and then none thereafter

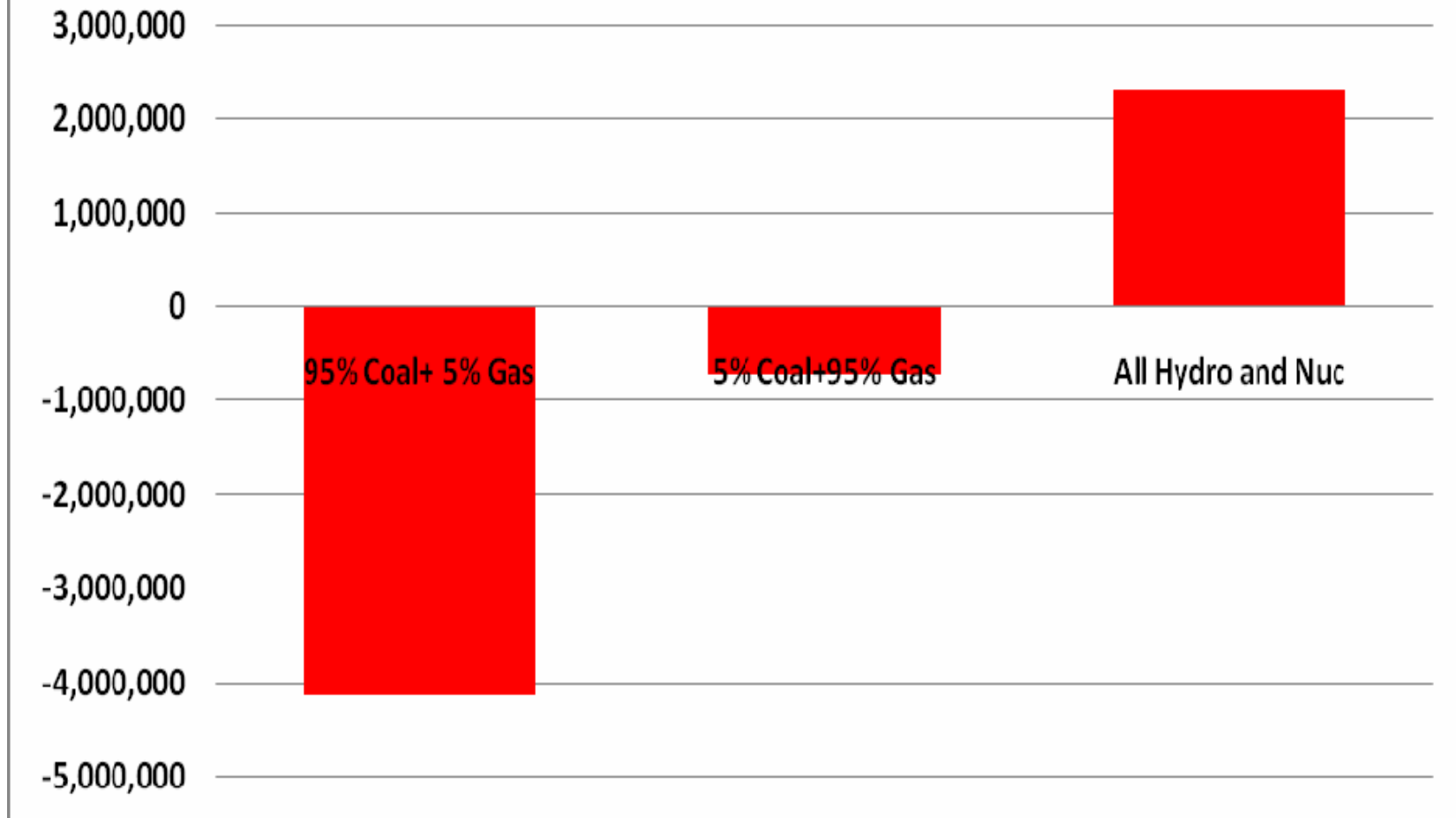
Allocation of Allowances within EGU Sector

- Long-Term Purchase Agreements (not coal) – all they need
- Merchant Coal Generators (about 20% of all coal generation) – formula allocation, but not greater than 10% of allowances to EGU class
- Electric Local Distribution Companies get all the rest

Allocation of Allowances Among Electric Local Distribution Companies

- 50% based on relative CO₂ emissions
- 50% based on retail sales
→ Big incentive for distribution companies to buy no-coal power

HR. 2454 Allowance Deficit or Windfall by Fuel Mix



2012 Allowance Allocations for a Utility with 10,000,000 Megawatt Hours (MWhs) in Retail Sales.
Source: Climate Policy Group

2030 Cumulative Allowance Cost or Windfall of HR 2454 by Fuel Mix Based on 10,000,000 Retail Sales



Cumulative Allowance Cost or Windfall Through 2030 for a Utility with 10,000 Group
Source: Climate Policy Group

NSPS for Coal Mines?

- Coal mines are uncapped sources
- EPA directed to issue NSPS for
 - Source categories of uncapped GHG emissions greater than 10,000 tons of CO₂ equivalent and that, in the aggregate, were responsible for emitting at least 20 percent annually of the uncapped greenhouse gas emissions.
 - Source categories that are responsible for at least 10 percent of the uncapped methane emissions in 2005.

Will Coal Mine Methane Emission Projects Qualify for Offsets?

- Additionally – Offsets not allowed where the emission reduction was otherwise required by law
- If EPA sets NSPS for coal mine methane emissions, cannot qualify for offset

Observations on Congress

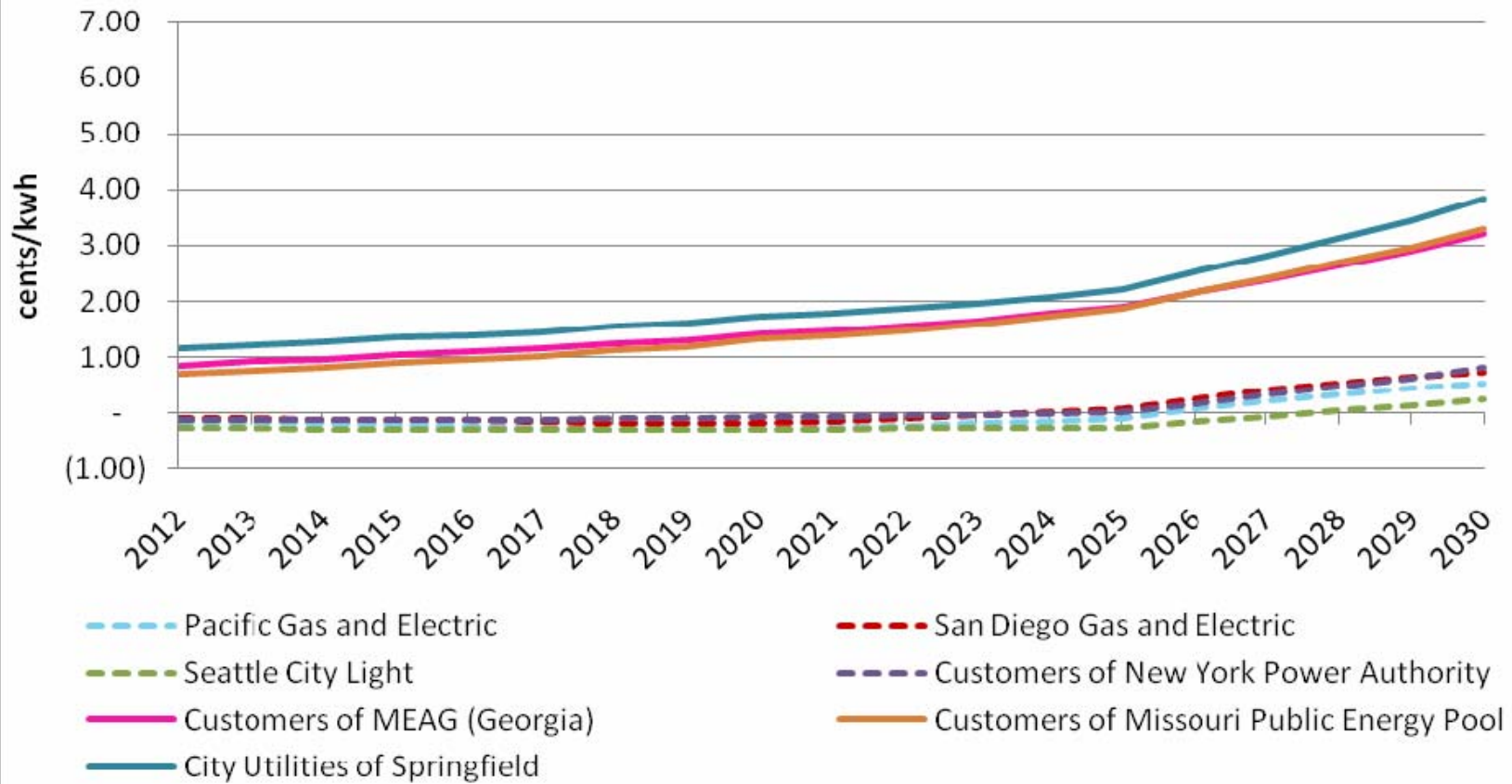
Waxman-Markey push to pass by July 4

- Big issue with Ag
- Likely to pass in House – how close vote is will affect chances in Senate

Senate: This is going to be a lot closer than people think. And we may have the showdown this year. Bingaman reported this week. Boxer wants mark-up week of 8/3.

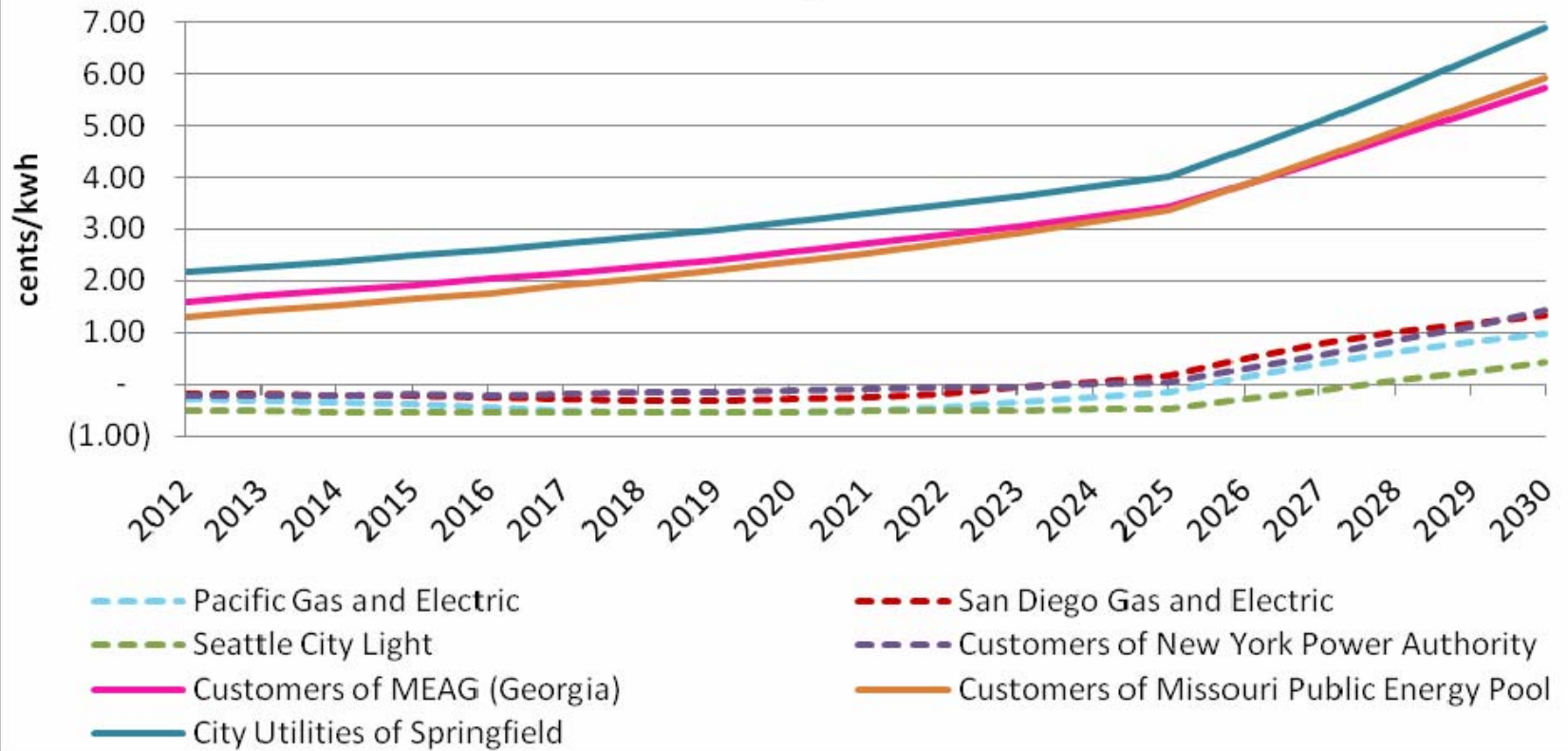
- How steadfast will the Midwestern/coal state Ds be if the President gets personally involved?

Increased Power Costs from HR 2454 Based on EPA Allowance Prices



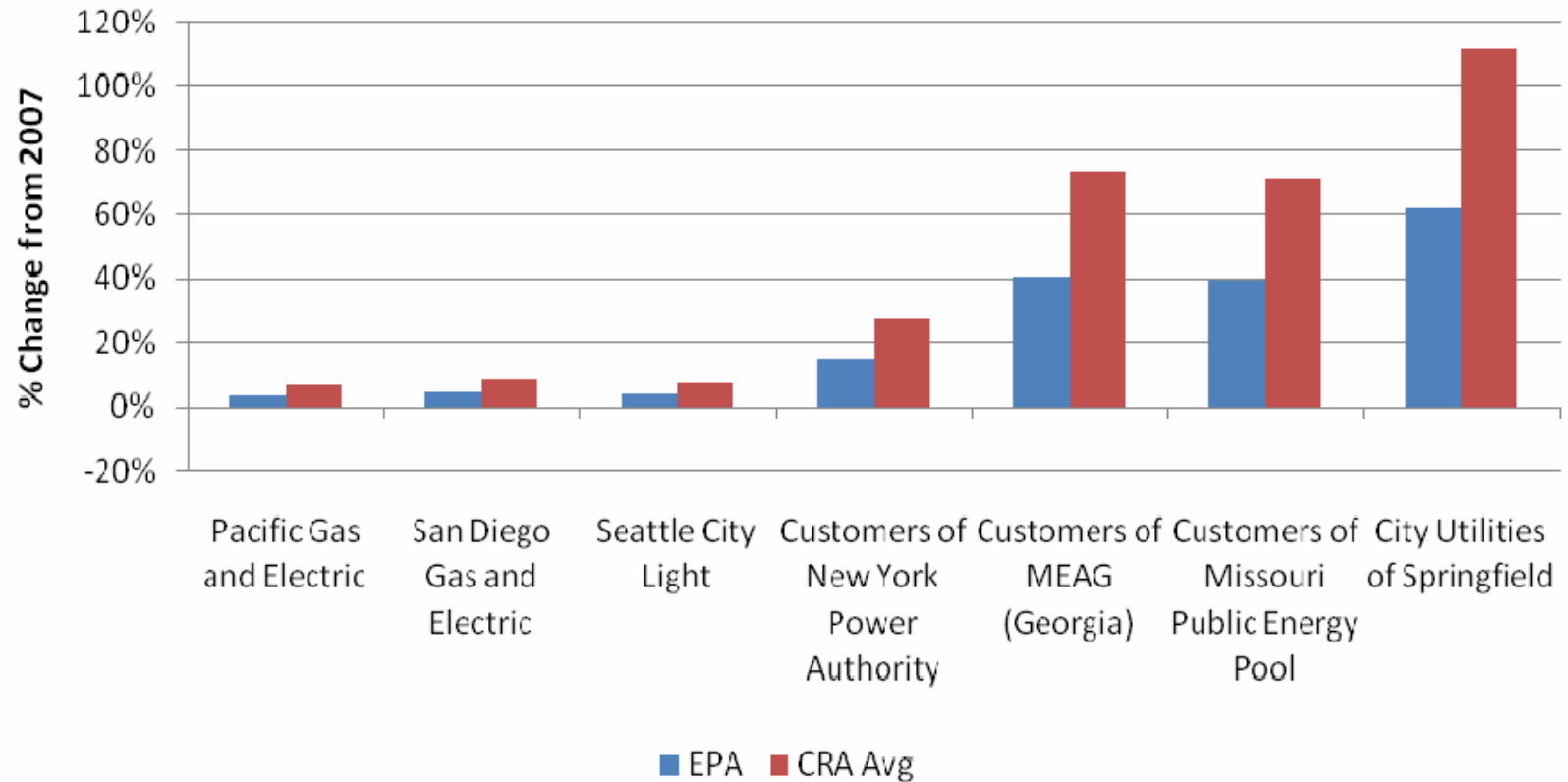
Source: Climate Policy Group

Increased Power Costs from HR 2454 Based on CRA Average Allowance Prices



Source: Climate Policy Group

Electric Rate Change from 2007-2030



Source: Climate Policy Group

Carbon Regulation Is All About Choices



Strategic Considerations on EPA vs. Congress

- EPA and Congressional leadership are trying to use threat of CAA regulation as sword to soften up industry on cap-and-trade
- National legislation is preferable to CAA regulation by a mile, but not at any cost
- Two-front battle to get a sensible climate change program

The Future?

U.S. carbon market seen
rocketing to \$2T

"Make no mistake, these carbon markets can be the world's largest commodity markets in a few short years," Commissioner Bart Chilton of the Commodity Futures Trading Commission told a carbon market gathering in Chicago.



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