



# Message From the CEO

## According to the Supreme Court, the Cost of Regulation Matters

**AS YOU MAY HAVE HEARD**, the U.S. Supreme Court overturned a landmark Environmental Protection Agency air quality rule on June 29. The case examined whether the EPA adequately considered costs in determining it was “appropriate and necessary” to regulate air toxics emissions from power units under its mercury and air toxics standards (MATS). In a 5-4 ruling, the justices determined that the EPA should have taken into account the costs to utilities before deciding whether to set limits for the toxic air pollutants as part of its MATS regulatory package, which was finalized in 2012.

The Clean Air Act of 1963 is a United States federal law designed to control air pollution on a national level and is administered by the EPA. The Clean Air Act directs the EPA to regulate emissions

of hazardous air pollutants from certain stationary sources (including electric generation facilities) if it concludes that “regulation is appropriate and necessary” after studying hazards to public health. In the MATS regulatory package, the Supreme Court ruled that the EPA refused to consider cost when making its decision, noting that implementing regulations would cost \$9.6 billion a year for a quantifiable health benefit of just \$4–\$6 million a year. In the Supreme Court’s own words, “EPA strayed well beyond the bounds of reasonable interpretation in concluding that cost is not a factor relevant to the appropriateness of regulating power plants.”

In the majority ruling, Justice Antonin Scalia concluded that “The agency must consider cost—including, most importantly, cost of compliance—before deciding whether regulation is appropriate and necessary.”

Additionally, Scalia wrote, “By EPA’s logic, someone could decide whether it is ‘appropriate’ to buy a Ferrari without thinking about cost, because he plans to think about cost later when deciding whether to upgrade the sound system.”

Fortunately, this ruling will have a very modest impact as many power suppliers have by now largely complied with the EPA’s MATS regulations. But what does this ruling mean for the electric industry as we work to comply with upcoming mandates from the

EPA regarding Section 111(d) of the Clean Air Act, regarding greenhouse gas emissions from existing coal plants? This Supreme Court decision could have long-term impacts for the way the EPA makes regulations in the future. In ruling that the EPA must consider compliance costs when making new rules, we are hopeful that the Judicial Branch will keep the Executive Branch within the boundaries of authority as defined by Congress.

Electric cooperatives have remained committed to keeping power affordable, reliable, safe, and environmentally responsible for our members for over 75 years. We are concerned about the impact that the EPA’s Clean Air Act mandates will have on our members who will ultimately pay for the cost of these regulations. Costs matter in regulation, and it’s reassuring to see that point reinforced by the Supreme Court, which stated that the EPA’s refusal to consider cost when making findings is “unreasonable.”

As a result of this ruling, we hope the EPA prioritizes the financial impact of their mandates as they prepare to release final standards for Section 111(d) of the Clean Air Act later this summer. For years, electric cooperatives across America have been advocating for affordable, reliable energy on behalf of our members. We are encouraged to see that the Supreme Court is also concerned with the cost impact of EPA mandates. 