

# 8 States Sue 5 Biggest Emitters of Carbon Dioxide

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Eight states and New York City sued five large utilities today that are the country's biggest emitters of carbon dioxide, the heat-trapping gas that scientists have linked to global warming.

The effort is the first by local governments to try to force companies outside their jurisdictions to curb gas discharges blamed for rising global temperatures and sea levels. Officials involved in the suit said they had acted to force cuts in the gases because the federal government has not.

In the suit filed today in Federal District Court in Manhattan, the states and the city said they were not seeking financial penalties but instead demanding significant cuts in the emissions, which they said posed serious threats to health, the economy and environment.

The states are California, Connecticut, Iowa, New Jersey, New York, Rhode Island, Vermont and Wisconsin.

The companies named in the suit were American Electric Power, Cinergy, the Southern Company, the Tennessee Valley Authority and Xcel Energy. They operate more than 170 power plants that burn fossil fuels and that the states and city say emit 646 million tons of carbon dioxide a year, or 10 percent of the national total.

At a Manhattan news conference, Attorney General Eliot Spitzer of New York said that science pointing to risks from warming was "overwhelming."

He added that cuts of 3 percent a year in carbon dioxide emissions from utilities were "technically and economically feasible" and could be achieved without a noticeable impact on electricity costs.

Representatives of some of the companies named in the suit said they were already acting to curb emissions of carbon dioxide and that the courts were not the right place to deal with the problem.

"Climate change is a global issue that can't be effectively addressed by any individual company or small group of companies," said Melissa McHenry, a spokeswoman for American Electric Power.

Many states, including many of those involved in the new lawsuit, have already been using litigation to pressure out-of-state power plants to curtail nitrogen and sulfur emissions that travel long distances.

Other suits have been filed by states and private organizations against the Environmental Protection Agency over carbon dioxide, contending that the agency had failed to restrict the gas as a pollutant under the Clean Air Act despite growing evidence that it posed risks.

But the new suit was the first state legal action taken directly against companies that discharge carbon dioxide, an unavoidable byproduct of burning coal, oil and other fossil fuels.

New York City joined the suit, said Michael A. Cardozo, the city's corporation counsel, "out of concern for the impacts that global warming will have on the city and its residents and as part of the Bloomberg administration's commitment to maintaining a clean and sustainable New York."

The plaintiffs plan to base the suit on federal common law of public nuisance. The common law, they said in a news release, "provides a right of action to curb air and water pollution emanating from sources in other states."

Lawyers and lobbyists for energy companies said the plaintiffs would have a hard time making a case that carbon dioxide was a pollutant, and they noted that the gas flowed not only from power plants, but was also in exhaled breaths and the bubbles rising from open beer containers.

But Richard Blumenthal, the Connecticut attorney general, cited the states' successful suits against tobacco companies as evidence that such efforts can succeed. "The basic principal we're enforcing today is that when companies do harm to their neighbors and citizens they should be held accountable and they should be stopped," he said.