

## **8 STATES GO AFTER UTILITIES IN OHIO**

Lawsuit says AEP, Cinergy feed global warming through plants' emissions of carbon dioxide

**Spencer Hunt, THE COLUMBUS DISPATCH**

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Eight states and New York City are expected to file a lawsuit today intended to force American Electric Power, Cinergy Corp. and at least three other power companies to reduce their plants' carbon-dioxide emissions, which are linked to global warming.

Attorneys general in California, Connecticut, Iowa, New Jersey, New York, Rhode Island, Vermont and Wisconsin will name the two Ohio-based utilities among the top five producers of carbon dioxide nationwide.

The suit will ask a federal court in Manhattan to declare the carbon-dioxide emissions a public nuisance and to order the companies to reduce them from their 174 fossil-fuel power plants.

Details of the suit were to be announced today in news conferences in Des Moines, Iowa, Los Angeles, Milwaukee and New York.

Although officials from the states filing the suit declined to comment, officials at AEP and Cinergy said they would challenge the lawsuit and the states' authority to file it.

"Filing lawsuits is not a constructive way to deal with this issue," said AEP spokeswoman Melissa McHenry.

"This looks to us like an effort to legislate by lawsuit," said Cinergy spokesman Steve Brash.

The draft copy of a news release obtained by The Dispatch names AEP the No. 1 "global warming polluter" in the United States. It says the company's plants emitted more than 220 million tons of carbon dioxide in 2002. Cincinnati-based Cinergy is ranked No. 5, and is listed as emitting 70 million tons that year.

Also named in the release are Southern Company, which runs plants in Alabama, Florida, Georgia and Mississippi; the Tennessee Valley Authority, which operates in Alabama, Georgia, Kentucky, Mississippi, North Carolina and Tennessee; and Xcel Energy Inc., with plants in Colorado, Kansas, Michigan, Minnesota, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming.

These three companies produced a combined 417 tons of carbon dioxide in

2002, according to the release. It's not clear if other power companies might be included in the suit.

The release states the five companies together produce 10 percent of the carbon dioxide released nationally each year.

"Carbon dioxide and global warming pose a real and serious threat to our health, our environment and our future," New Jersey Attorney General Peter C. Harvey states in the draft release.

"If these companies will not act voluntarily, then we will compel them through court action."

The release states carbon-dioxide and other heat-trapping emissions are to blame for global warming and its consequences, which include rising sea levels, loss of beaches, loss of California mountain snowpack, drought and floods.

Brash and McHenry argue that there are no national standards that call for reducing carbon dioxide. Because of that, they question whether the states have the legal standing to sue.

The release, however, states that the federal common law of public nuisance gives the New York federal court the authority to curb air and water pollution emanating from other states.

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