

October 27, 2016

The Honorable Lamar Smith
Chairman
Committee on Science, Space and Technology
2321 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Smith:

As we have discussed with the Majority and Minority staff on several occasions, including most recently on October 25, 2016, Climate Reality harbors significant reservations regarding the breadth of the July 15, 2016 subpoena issued by the Committee Majority. We have raised our objections to the scope of the subpoena, which implicates and undermines the legitimate First Amendment rights of Climate Reality to petition government regarding issues of significance, and to engage in protected communications with other groups regarding these same matters. These objections have been met with a range of responses from the Committee Majority, culminating with an October 13, 2016 letter to Climate Reality that threatened a contempt proceeding if Climate Reality did not provide a responsive communication by October 27, 2016.

Climate Reality rejects the Committee's assertion that there is sufficiently broad jurisdiction inherent in the Committee's authority to subpoena communications between and among non-profit groups and state regulators regarding potential enforcement matters. Such a request has no relation to the Committee's asserted jurisdiction over federal funding of scientific research. To broaden that jurisdiction to include any research funded in the United States that is not military or medical is hardly consistent with prior instances in which Congressional subpoenas have been upheld. Moreover, to the extent that Climate Reality engages in discussions with regulators regarding enforcement matters related to alleged fraud, such communications, including association with other groups related to this same conduct, can hardly be the purview of the House Science Space and Technology Committee.

Accordingly, we reiterate our objections to the Committee's request for documents based on the protections of the First Amendment, and reserve all rights with respect to the subpoena.

With that said, Climate Reality remains committed to a mission of educating the public and policymakers about climate science and the reality of and solutions to climate change. To that end, and in the interest of furthering a dialogue on these important topics, Climate Reality has catalogued its communications consistent with the July 15, 2016 subpoena. This was undertaken in an effort to crystallize Climate Reality's objection to the subpoena, and as we shared with Committee staff on two separate occasions, was intended to bring clarity to the scope of the subpoena and seek some form of practical resolution.

Consistent with this review, we hereby submit to the Committee that Climate Reality identified a total of thirty-four (34) communications that relate to the Committee's subpoena, engagement with state attorneys general, and communications between and among similarly situated groups related to these same subjects. Of those thirty-four communications, two (2) are directly with attorneys general offices, and thirty-two (32) are with other groups. Further, of the thirty-two (32) communications involving third parties other than attorneys general offices, twelve (12) involve the Committee's demand to produce documents, nineteen (19) are listserve or membership communications, and one (1) involves the activities of state attorneys general.

It is our sincere hope that the Committee reviews this information, considers the dangerous ramifications of further inquiry as a matter of constitutional significance, and concludes that further action in respect of Climate Reality would further no legitimate legislative purpose.

Sincerely,



Michael E. Zolandz
Partner

cc: The Honorable Eddie Bernice Johnson, Ranking Member, Committee on Science, Space and Technology