E&ENEWS
BY POLITICO

CLIMATEWIRE

Business Roundtable targets climate rule supported by its members

By Corbin Hiar, Lesley Clark

07/08/2024 07:11 AM EDT

Cisco Systems chief executive Chuck Robbins chairs the Business Roundtable. | Pau Barrena/AFP via Getty Images

A trade association for the nation's top chief executives is working to kill a Biden administration climate policy supported by some of the group's biggest members, including Apple.

The Business Roundtable last month threw its muscle behind a legal bid to strike down a Securities and Exchange Commission rule that would require standardized corporate climate risk disclosures — a key component of the Biden administration's plan to slow rising temperatures.

But more than a fifth of the group's 27 board members — including Cisco Systems CEO Chuck Robbins, the chair of the Business Roundtable — run companies that issued comments backing the SEC climate rule, according to an E&E News analysis of regulatory filings.

Other companies represented on the group's board of directors that have supported the regulation are Citi, United Airlines, FedEx and Cummins, an engine maker whose leader chairs the Business Roundtable's energy and environment committee.

The Business Roundtable's move to file a so-called friend of the court brief opposing the SEC rule threatens to undercut the pro-climate advocacy efforts of some of its leading members and leaves them open to accusations of hypocrisy, according to corporate watchdogs.

"It's a real problem and it raises questions in terms of conflicts and what the companies are doing, and how their money is being used," said Bruce Freed, the president of the nonpartisan Center for Political Accountability. "Because the association gets substantial dues from their members."

Companies aren't legally required to disclose how much they spend on trade association memberships, although some voluntarily publish that information. For instance, banking giant Citi and delivery company FedEx both acknowledged paying at least $50,000 to the Business Roundtable in 2022.

The Business Roundtable's attack on the climate rule comes amid investor scrutiny of potential contradictions between corporations' public statements and the actions of the lobby groups they fund. This year, Goldman Sachs, IBM and seven other companies had resolutions calling for more transparency around corporate and trade association lobbying that attracted the support of more than a third of their shareholders, according to a database maintained by the conservative Manhattan Institute think tank.

The Business Roundtable declined to comment, pointing instead to previous statements on the climate regulation.

"This rule is a clear example of the SEC's unwarranted overreach beyond what Congress intended, and we are urging the Court to vacate this misguided rule," Joshua Bolten, the association's CEO, said on June 25.

When the regulation was finalized in March, he praised the agency for moving "away from some of the most troubling provisions in the original proposal." Still, Bolton argued, "the rule contains multiple, highly complex provisions that have not been subject to notice and comment."

E&E News examined past comments by companies represented on the association's board and found that just four had publicly opposed the climate rule: Walmart, General Motors, Nasdaq and ConocoPhillips.

Apple, the world's second-most valuable company, was one of the earliest backers of the climate disclosure rule — a fact that the tech giant highlighted in a report last year on its "environmental progress."

In June 2021, Apple sent a comment letter urging SEC Chair Gary Gensler to "issue rules to require that companies disclose third-party-reviewed carbon emissions information to the public, covering all scopes of emissions, direct and indirect, including relevant emissions from a company's entire value chain."

"Only by measuring carbon emissions are companies able to fully understand their footprint, develop strategies and identify opportunities to reduce emissions and, ultimately, achieve decarbonization," the company's then-head of global energy and environmental policy wrote at the time.

Apple's statements in support of the rule clash with the Business Roundtable's effort to undermine it, raising doubts about the company's commitment to climate action.

"It calls into question how serious their position is," Freed said of Apple and other Business Roundtable members who backed the landmark regulation.

"If they file comments supporting the SEC disclosure rule and then their trade association — and this is a trade association that is widely respected, has a great deal of heft — it clearly is undercutting" those efforts, he said.

Apple didn't respond to questions about the internal process that preceded the Business Roundtable's move, and whether the company is reconsidering its involvement with the group. Apple left the U.S. Chamber of Commerce in 2009 because it disagreed with the trade association's attacks on climate policy.

"We strongly support climate disclosures to improve transparency and drive progress in the fight against climate change," Apple spokesperson Sean Redding said in an email, which noted that the company has modeled, measured and voluntarily reported its own emissions for a decade.

Cisco, FedEx and Cummins didn't respond to requests for comment. United and Citi declined to comment.

Risk rule in legal limbo

The Biden administration voluntarily paused the climate disclosure rule in early April in the face of nearly a dozen lawsuits from fossil fuel interests and Republican-led states.

The SEC has said the temporary halt does not mean the administration is retreating from its belief that the disclosure rule is both "consistent with applicable law" and within the agency's authority.

The administration's efforts to defend the rule were further complicated at the end of June when the Supreme Court issued *Loper Bright v Raimondo*, jettisoning a decades-old legal deference that courts have given to federal agencies.

The U.S. Chamber, which is one of the challengers to the rule, has called it "unlawful several times over" and says it represents the most expensive disclosure requirement the SEC has ever adopted. The Chamber's board includes a FedEx executive; Citi and United are among its dues-paying members.

Critics told the 8th U.S. Circuit Court of Appeals last month that the regulation would pose an "extraordinary burden" on companies to comply. The SEC has until Aug. 5 to file its formal response with the court.

More than 50 organizations have joined an array of friend of the court briefs in the cases, including conservative advocacy groups Club for Growth, Americans for Prosperity Foundation and Advancing American Freedom, a policy organization founded by former Vice President Mike Pence.

The battery of lawsuits has been consolidated at the 8th Circuit, a federal appeals court in Missouri that is dominated by conservative judges.

Two environmental groups that had challenged the SEC rule because it didn't go far enough dropped their lawsuits in early June. The Sierra Club and the Natural Resources Defense Council said instead that they would focus on improving corporate reporting of climate-related financial risks.