

Opening Statement of the Honorable Ed Whitfield  
Committee on Energy and Commerce  
Markup of 17 Bills  
February 24, 2016

Today we begin the process of marking up 17 bills, 16 of which derive from the Subcommittee on Energy and Power. These bills are good for jobs and the economy, good for domestic energy production, and good for consumers. This includes 7 bills to extend the licenses for new hydropower projects, so that this affordable source of electricity can serve more communities and create more jobs. We also have bills that improve the FERC process on everything from natural gas pipeline permitting to electric utility merger approvals to electric rate challenges. And I am also pleased that we have included Mr. Rush and Mr. Hudson's bill which takes steps to help make training for energy and manufacturing jobs available to women and minorities as well as veterans and out-of-work coal miners. I urge support for all of these bills.

There are two bills that I would like to point out in more detail. HR. 4557, the BRICK Act, a bipartisan bill introduced by Reps. Johnson (OH), Bishop (GA), Shimkus (IL), Sewell (AL), and Roby (AL). This bill takes the reasonable and commonsense step of extending the deadline for EPA's recent Brick MACT standard until after judicial review is completed. The brick industry is dominated by small companies, many of whom are still struggling with the weak economy that has kept demand for bricks and other building materials below pre-recession levels. These companies will have great difficulty complying with EPA's strict new rule, and absent relief some will likely go out of business before the courts have rendered a final decision.

I might add that this is an industry that has been burned once before. EPA's original 2003 Brick MACT standard was vacated by a federal court in 2007, but the decision came after the industry had already been forced to undertake costly and irreversible compliance steps. We don't want to see that happen again. The same thing occurred more recently with EPA's Utility MACT rule, which was found to be unlawful and remanded by the Supreme Court after the compliance deadline had already passed. Afterwards, EPA noted that the Supreme Court's decision is of little practical consequence because regulated utilities had already undertaken compliance measures.

The Supreme Court's recent stay of the Clean Power Plan is another acknowledgment that EPA regulations can do damage before they have been adjudicated. However, courts rarely grant such stays, and there can be a need for Congress to step in and ensure that timely judicial review can occur before compliance is required. To ensure the continued viability of the brick industry in the United States, and to ensure courts will have adequate time to review the pending legal challenges, I strongly urge my colleagues to support the BRICK Act.

I would also like to discuss the SENSE Act, as this is a bill that is a plus for jobs, for energy production, and for the environment. Those from coal-mining regions know about the problem of coal refuse – the massive piles of unusable coal found near many abandoned mines. Left unaddressed, coal refuse contributes to a number of environmental challenges.

Fortunately, there is an economically viable solution that reduces coal refuse while reclaiming contaminated lands. Specialized power plants have been developed that combust coal refuse to produce electricity. These coal refuse-to-energy facilities not only reduce the volumes of coal refuse, but the resultant ash is environmentally beneficial and is used for site remediation.

However, the continued operation of these plants is jeopardized by EPA's Cross State Air Pollution Rule (CSAPR) and the Mercury and Air Toxics Standards (MATS). As written, these two rules don't take into account the unique characteristics of coal refuse-to-energy facilities, and many operators of these facilities believe they may have to shut down. The SENSE Act contains limited modifications to these rules to ensure the continued operation of these innovative facilities that serve to clean up the environment.

All of the bills we address today promote jobs and economic growth while maintaining environmental and consumer protections, and I urge my colleagues to support them. Thank you.