



April 20, 2015

TO: Members, Subcommittee on Energy and Power

FROM: Committee Majority Staff

RE: Subcommittee Markup of a Discussion Draft entitled “Ratepayer Protection Act”

I. INTRODUCTION

The Subcommittee on Energy and Power will meet in open markup session on Wednesday, April 22, 2015, in 2123 Rayburn House Office Building. The Subcommittee on Energy and Power will hold a markup to consider the following:

- H.R. ____, Ratepayer Protection Act.

In keeping with Chairman Upton’s announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to peter.kielty@mail.house.gov. Any information with respect to an amendment’s parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

II. EXPLANATION OF LEGISLATION

On March 23, 2015, Chairman Whitfield released a discussion draft of H.R. ____, the “Ratepayer Protection Act,” and on April 14, 2015, the Subcommittee held a legislative hearing. The legislation would allow for judicial review of any final rule issued by the Environmental Protection Agency (EPA) addressing carbon dioxide (CO₂) emissions from existing fossil fuel-fired electric utility generating units before requiring compliance with the rule, and also allow States to protect households and businesses from significant adverse effects on electricity ratepayers or reliability. The legislation includes the following provisions:

Section. 1: This section provides the short title of “Ratepayer Protection Act of 2015.”

Section. 2: This section would extend the compliance dates of any final rule issued under section 111(d) of the Clean Air Act (CAA) addressing CO₂ emissions from existing fossil fuel-fired electric utility generating units, including for submittal of State plans.

Section 2(a) provides that the term “compliance date” means the date by which any State, local, or tribal government or other person is first required to comply with the rule, including the date for submittal of State plans to the EPA.

Section 2(b) provides that the final rules subject to the Act include any final rule that addresses CO₂ emissions from existing sources that are fossil fuel-fired electric utility generating

units under section 111(d) of the CAA, including any final rule that succeeds the EPA's proposed rules published at 79 Fed. Reg. 34830 (June 18, 2014) or 79 Fed. Reg. 65482 (November 4, 2014).

Section 2(c) provides that the time period by which the compliance dates would be extended would be the period of time that begins 60 days after the final rule appears in the Federal Register, and ends on the date on which judgment becomes final, and no longer subject to further appeal or review, in all actions filed during the initial 60 days after the rule appears in the Federal Register seeking review of the rule, including actions pursuant to CAA section 307.

Section. 3: This section provides that no State shall be required to adopt a State plan, and no State or entity within a State shall become subject to a Federal plan, pursuant to any final rule described in section 2(b), if the Governor of the State makes a determination, and notifies the EPA Administrator, that implementation of the State or Federal plan would have a significant adverse effect on 1) the State's residential, commercial, or industrial ratepayers, taking into account the rate increases necessary to implement the State or Federal plan, and other rate increases that have been or are anticipated to be necessary to implement other Federal or State environmental requirements; or 2) the reliability of the State's electricity system, taking into account the effects on the State's existing and planned generation and retirements, transmission and distribution infrastructure, and projected electricity demands.

This section further provides that, in making such a determination, the Governor consult with the State's energy, environmental, public health, and economic development departments or agencies, and any regional entity, as defined in section 215 of the Federal Power Act, whose jurisdiction includes the State.

III. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Mary Neumayr or Tom Hassenboehler of the Committee staff at (202) 225-2927.