

Opening Statement of the Honorable Ed Whitfield
Subcommittee on Energy and Power
Markup of The Ratepayer Protection Act
April 22, 2015

(As Prepared for Delivery)

This morning we begin the markup of the Ratepayer Protection Act, a bill that will add several important safeguards to EPA's proposed Clean Power Plan for existing electric generation. I urge my colleagues to support this commonsense bill.

At our hearings on this proposed rule, we have received a great deal of testimony from a variety of perspectives.

We heard from legal experts who explained why EPA's Clean Power Plan is on shaky legal ground. They pointed to the agency's unprecedented attempt under an "expansive reading" of a rarely invoked statute to take over State electricity systems. They described EPA's "fundamentally flawed" interpretation of its authorities to regulate emissions under section 111(d) of the Clean Air Act – a misinterpretation that EPA uses to justify regulating electricity and electricity delivery, rather than limiting its efforts to the actual *source* of emissions, the electric power plants.

We heard from state officials, who warned that the rule's accelerated deadlines are not workable and may require States to take costly and potentially irreversible steps before judicial review is completed.

These irreversible steps may include decisions to shut down coal-fired power plants for which millions of dollars have been invested to comply with other EPA rules – power plants that would otherwise operate economically for many more years. These steps may also require initiating construction of new electric generation and transmission that would have not been undertaken absent the Clean Power Plan. Potentially billions of dollars may be committed to compliance with the proposed rule before we know whether EPA has authority to proceed with the rule.

The subcommittee heard from those speaking on behalf of ratepayers who will ultimately bear the cost of the Clean Power Plan through higher electric prices. We learned that EPA's rule threatens annual double digit electric rate increases for many states in the coming years. These projected increases lay on top of rate increases already occurring as a result of other EPA rules. The proposed rule may also compromise electric reliability, so ratepayers could end up spending more and getting less, and all with no measurable impact on the global climate.

We believe these major problems can be addressed with the Ratepayer Protection Act. The bill suspends the compliance deadlines until after judicial review is completed, so states are only obligated to comply after the rule's legality has been established.

The bill also provides a mechanism if a state governor determines that implementing a specific state or federal plan under the regulation would have a significant adverse effect on its ratepayers or electric reliability.

The bill does not repeal the Clean Power Plan nor does it preclude a state from moving forward with EPA's agenda. It simply creates a voluntary process to prevent the proposed rule from imposing unnecessary economic hardship.

Now I know that there is a wide range of opinions on this subcommittee about the merits of EPA's Clean Power Plan. But whether you think it's a good rule or a bad rule, the Ratepayer Protection Act will provide reasonable protections against rising electricity costs for American families and businesses. I urge all of my colleagues to support this measure.

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