

Congressman Keith Rothfus

House Energy and Commerce Committee, Subcommittee on Energy and Power

Legislative Hearing Written Testimony

2123 Rayburn House Office Building, 10:00am, February 3, 2016

Thank you, Mr. Chairman, for holding this hearing today on two vitally-important pieces of legislation: the SENSE Act (H.R. 3797) and the BRICK Act. I also want to thank Vincent Brisini, Director of Environmental Affairs at Olympus Power, and Dennis Beck, the Chairman of the Western Pennsylvania Coalition for Abandoned Mine Reclamation, for coming to Washington today to provide additional insight on my legislation.

The SENSE Act, which stands for the Satisfying Energy Needs and Saving the Environment Act, is a common-sense solution that allows innovative coal refuse-to-energy facilities to generate affordable, reliable energy and continue their essential environmental remediation work in a responsible manner.

As many of you know, the coal industry has been a central part of Pennsylvania's economy for many years. Unfortunately, historic mining activity littered Pennsylvania and a few other states with large piles of coal refuse (sometimes called waste coal), which is essentially a mix of lower quality coal, rocks, and dirt that remain after the mining and processing of coal. Before technology was invented to make use of this material, it accumulated in open spaces alongside cities and towns, close to schools and neighborhoods, and in fields across coal country.

This led to a number of environmental problems that still plague affected communities. These include air pollution, damage to vegetation and wildlife, and water pollution from acid mine drainage. I have been to several of these sites and seen firsthand the environmental danger they pose. Coal refuse piles can catch fire and burn for unacceptably long periods of time, polluting nearby neighborhoods. Runoff from these sites can turn rivers orange and leave them devoid of life. According to Pennsylvania's environmental regulator, it would cost roughly \$2 billion to clean up this hazard in my state alone.

This is a significant challenge, but it is one that Pennsylvanians and others in coal country are prepared to meet. The coal refuse-to-energy industry has been a leader on solving this problem. With advanced technology, this industry has been able to use this previously worthless material to generate affordable and reliable energy. In the process, they have removed over 200 million tons of coal refuse in Pennsylvania alone and remediated many formerly-polluted sites. Thanks to the hard work of the dedicated people in this industry, landscapes have been restored, rivers and streams have been brought back to life, and towns across coal country have been relieved of unsafe and unsightly waste coal piles.

And it is important to note that private sector leadership on this issue has saved taxpayers millions of dollars in cleanup costs. It has also created hundreds of family-sustaining jobs in areas that have been economically distressed for many years. These jobs and the communities they support are at risk today, unless we stand up to defend them.

The work that the coal refuse-to-energy industry has done is remarkable, and it represents an environmental success story that should transcend partisan lines. Despite my best efforts to advocate for a compromise, the Environmental Protection Agency (EPA) has

refused to adjust the regulations that threaten to shut down much of the coal refuse-to-energy industry, and thus imperil its vital remediation efforts. The intensification of two existing rules, the Mercury and Air Toxics Standards (MATS) Rule and the Cross-State Air Pollution Rule (CSAPR), is especially concerning.

Though all coal-refuse fired power generators can meet the mercury standard under MATS, many facilities will be unable to meet the rule's new hydrogen chloride (HCl) or sulfur dioxide (SO₂) standards. The SENSE Act provides operators with alternative compliance standards that are strict but achievable.

Similarly, although coal-refuse fired power generators were provided sufficient sulfur dioxide allocations in Phase I of CSAPR's implementation, these facilities were allocated insufficient credits in Phase II, which is set to begin in 2017. The SENSE Act seeks to provide coal-refuse fired power generators with the same allocations levels in Phase II as in Phase I. My bill also contains provisions to ensure that this change does not simply create a profit center for the industry. Credits allocated as a result of the SENSE Act's implementation must go to covered plants, specifically those that use bituminous coal refuse, and they cannot be sold off to other operators.

The SENSE Act represents a common-sense compromise between the legitimate goals of controlling pollutants emitted from coal-refuse-to-energy facilities and ensuring that regulations imposed on the industry are fair and allow vital remediation work to continue. The people who live near coal refuse piles and all of the communities downstream of these hazards expect us to find a solution. The industrious men and women at the power plants,

on the coal refuse piles, and throughout the supply chain are counting on us to protect their livelihoods. We owe it to all of them to pass the SENSE Act.

Again, I thank the Committee for holding this important hearing, and I welcome any questions that you might have.