U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE

July 20, 2015

TO: Members, Subcommittee on Energy and Power

FROM: Committee Majority Staff

RE: Subcommittee Markup of a Committee Print

I. INTRODUCTION

On Wednesday, July 22, 2015, at 10:00 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Energy and Power will hold a markup to consider the following:

- H.R. ____, "To modernize energy infrastructure, build a 21st century energy and manufacturing workforce, bolster America's energy security and diplomacy, promote energy efficiency and government accountability, and for other purposes."

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

In the 113th Congress, Chairman Upton unveiled the Architecture of Abundance – a new vision for an energy policy that reflects today's era of energy abundance and began working on ideas with Members of both parties to modernize policies rooted in outdated notions of energy scarcity. During the 114th Congress, Energy and Power Subcommittee Chairman Whitfield held 7 hearings to examine discussion drafts focused on modernizing energy infrastructure, building a 21st century energy and manufacturing workforce, bolstering America's energy diplomacy, and promoting energy efficiency and government accountability. Through the hearings, the Subcommittee received testimony from 9 governmental witnesses, including the Secretary of Energy, and 39 private sector organizations and experts.

- On April 23, 2015, the Subcommittee held a hearing on "Title II: 21st Century Workforce."[1]
- On April 30, 2015, the Subcommittee held a hearing on "Strategic Petroleum Reserve Discussion Draft and Title IV Energy Efficiency."[2]
- On May 13, 2015, the Subcommittee held a hearing on "Discussion Drafts Addressing Hydropower Regulatory Modernization and FERC Process Coordination under the Natural Gas Act."[3]

[1] *See* http://energycommerce.house.gov/hearing/title-ii-21st-century-workforce
[2] *See* http://energycommerce.house.gov/hearing/strategic-petroleum-reserve-discussion-draft-and-title-iv-energy-efficiency

- On May 19, 2015, the Subcommittee held a hearing on "Discussion Draft Addressing Energy Reliability and Security."[4]
- On June 2, 2015, the Subcommittee held a hearing on the "Quadrennial Energy Review and Related Discussion Drafts."[5]
- On June 3 and 4, 2015, the Subcommittee held a hearing on "Discussion Draft on Accountability and the Department of Energy Perspectives on Title IV: Energy Efficiency."[6]

The legislation includes the following provisions:

TITLE I—MODERNIZING AND PROTECTING INFRASTRUCTURE

Sec. 1101. FERC process coordination: This section reinforces the Federal Energy Regulatory Commission's (FERC) role as the lead agency for siting interstate natural gas pipelines. This section would require FERC to identify all agencies considering an aspect of an application and set the schedule for review, including a deadline for a final decision. To ensure that timely decisions are made and that the responsibilities of each Federal and State agency are met when making decisions, FERC would be required to coordinate its efforts and make a recommendation on the scope of the environmental review. Cooperating agencies are directed to carry out reviews concurrently, identifying any issues of concern that may delay or prevent an agency from meeting the schedule established by FERC, and giving deference to FERC on the scope of the environmental review when appropriate and in accordance with applicable Federal law. If issues arise, the Commission may forward them to the heads of the relevant agency for resolution. In cases where the is a failure to meet the schedule that is established by FERC, the head of the relevant agency would notify Congress and set forth a recommended implementation plan to ensure a final decision reached. This section also directs FERC to track, and make available to the public on its website, information related to the review of applications requiring multiple Federal authorizations.

Sec. 1102. Resolving environmental and grid reliability conflicts: This section resolves a conflict between the Federal Power Act and environmental laws and regulations in order to avoid forcing electric generators from choosing between complying with an emergency order from the Department of Energy (DOE) or violating an environmental obligation.

Sec. 1103. Emergency preparedness for energy supply disruptions: This section finds that recent natural disasters have underscored the importance of having resilient oil and natural gas infrastructure and effective ways for industry and government to communicate to address energy supply disruptions. This section directs the Secretary of Energy to develop and adopt procedures to enhance communication and coordination between the DOE, Federal partners, State and local government and the private sector to improve emergency response and recovery.

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[3] *See* http://energycommerce.house.gov/hearing/discussion-drafts-addressing-hydropower-regulatory-modernization-and-ferc-process
[4] *See* http://energycommerce.house.gov/hearing/discussion-draft-addressing-energy-reliability-and-security
[5] *See* http://energycommerce.house.gov/hearing/quadrennial-energy-review-and-related-discussion-drafts
[6] *See* http://energycommerce.house.gov/hearing/discussion-draft-accountability-and-department-energy-perspectives-title-iv-energy

Sec. 1104. Critical electric infrastructure security: This section establishes a new section 215A of the Federal Power Act that:

- Provides the Secretary of Energy the authority to address grid security emergencies if the President provides a written directive or determination identifying a grid security emergency. The Secretary is authorized to take emergency measures to protect the bulk power system or defense critical electric infrastructure, including ordering critical electric infrastructure owners and operators to take appropriate actions, with such measures to expire no later than 15 days from issuance.

- Facilitates the protection and voluntary sharing of critical electric infrastructure information between private sector asset owners and the Federal government by: (1) exempting designated Critical Electric Infrastructure Information from certain Federal and state disclosure laws; 2) requiring FERC to facilitate voluntary information sharing between Federal, State, local and tribal authorities, the Electric Reliability Organization, regional entities, and owners, operators and users of the bulk-power system in the U.S.; and 3) establishing sanctions for the unauthorized disclosure of shared information.

Sec. 1105. Strategic Transformer Reserve: This section requires (DOE) to submit a plan to Congress evaluating the feasibility of establishing a Strategic Transformer Reserve for the storage, in strategically-located facilities, of spare large power transformers and other critical equipment in sufficient numbers to temporarily replace critically damaged large power transformers. Strategically-located spare large power transformers will diminish the vulnerability of the United States to multiple risks facing electric grid reliability, including physical attack, cyber-attack, electromagnetic pulse, geomagnetic disturbances, severe weather, and seismic events.

Sec. 1106. Cyber Sense: This section directs DOE to establish a voluntary Cyber Sense program to identify and promote cyber-secure products and technologies intended for use in the bulk-power system, including products relating to industrial control systems, such as supervisory control and data acquisition systems.

Sec. 1107. State coverage and consideration of PURPA standards for electric utilities: This section directs electric utilities and State public utility commissions to consider:

- Increasing the utilization of, and cost recovery for, resiliency-related technologies designed to improve the resilience of electric infrastructure, mitigate power outages, continue delivery of vital services, and maintain the flow of power to facilities critical to public health, safety, and welfare;

- Promoting investments in advanced energy analytics technology for the purposes of realizing operational efficiencies, cost savings, enhanced energy management and customer engagement, improvements in system reliability, safety, and cybersecurity, or other benefits to ratepayers; and

- Adopting or modifying policies to ensure the incorporation of sufficient reliable generation into integrated resource plans to assure the reliable availability of electric energy over a 10-year planning period.

Sec. 1108. Reliability and performance assurance in mandatory capacity markets: To be supplied at full committee.

TITLE II—21st CENTURY WORKFORCE

Sec. 2101. Energy and manufacturing workforce development: This section directs the Secretary of Energy to establish a comprehensive program to improve education and training for energy and manufacturing-related jobs. This section directs the Secretary to collaborate with representatives from the energy and manufacturing industry to identify the areas of highest need and develop guidelines for the skills necessary to enter the workforce. The Secretary also is directed to provide direct assistance to schools, community colleges, workforce development organizations, non-profit organizations, labor organizations, apprenticeship programs, and minority serving institutions to carry out the program established in this section. This section also provides special consideration for increasing outreach to employers and job trainers preparing displaced and unemployed energy and manufacturing workers to re-enter the workforce.

TITLE III—ENERGY SECURITY AND DIPLOMACY

Sec. 3101. Sense of Congress: This section finds the following: 1) North America's energy revolution has significantly enhanced energy security in the United States, and fundamentally changed the Nation's energy future from that of scarcity to abundance; 2) North America's energy abundance has increased global energy supplies and reduced the price of energy for consumers in the United States and abroad; 3) allies and trading partners of the United States, including in Europe and Asia, are seeking stable and affordable energy supplies from North America to enhance their energy security; 4) the United States has an opportunity to promote greater stability and affordability of energy supplies for its allies and trading partners through a more integrated, secure, and competitive North American energy system; and 5) the United States also has an opportunity to promote such objectives through greater Federal agency coordination relating to regulations or agency actions that significantly affect the supply, distribution, or use of energy.

Sec. 3102. Energy security valuation: This section directs the Secretary of Energy to establish U.S. energy security valuation methods to ensure that energy-related actions that significantly affect the supply, distribution, or use of energy are evaluated with respect to their potential impact on energy security, including their impact on consumers and the economy; energy supply, diversity and resiliency; well-functioning and competitive energy markets; United States trade balance; and national security objectives.

Sec. 3103. North American energy security plan: This section directs the Secretary of Energy to report to Congress with a plan to improve planning and coordination with Canada and Mexico to enhance energy integration, strengthen North American energy security, and promote

efficiencies; and improve collaboration with Caribbean and Central American partners on energy security.

Sec. 3104. Collective energy security: This section directs the Secretary of Energy, in consultation with the Secretary of State, to convene at least 2 Trans-Atlantic and 2 Trans-Pacific forums to foster dialogue among the governments of U.S. allies and trading partners, independent experts, and industry representatives with the goal to promote energy security.

Sec. 3105. Strategic Petroleum Reserve mission readiness plan: This section seeks to ensure that our strategic stockpiles of petroleum are kept safely and readily accessible in times of national emergency by directing the DOE to conduct a long-range strategic review to specify the near and long-term roles of the Strategic Petroleum Reserve and recommend an action plan to achieve the optimal 1) capacity, location, and composition of petroleum products in the Reserve; and, 2) storage and distributional capabilities.

TITLE IV—ENERGY EFFICIENCY AND ACCOUNTABILITY

SUBTITLE A—ENERGY EFFICIENCY

CHAPTER 1—FEDERAL AGENCY ENERGY EFFICIENCY

Sec. 4111. Energy-efficient and energy-saving information technologies: This section requires Federal agencies to coordinate with the Office of Management and Budget (OMB), DOE, and the Environmental Protection Agency (EPA) to develop an implementation strategy – that includes best practices and measurement and verification techniques – for the maintenance, purchase, and use of energy-efficient and energy saving information technologies. OMB would be required to track and report on each agency's progress.

Sec. 4112. Energy efficient data centers: This section seeks to improve the energy efficiency of Federal data centers by, among other items, requiring DOE to update a 2007 report on data center energy efficiency and maintain a data center energy practitioner certification program. DOE also would establish an open data initiative to help share best practices and support further innovation, and develop a metric that measures data center energy efficiency.

Sec. 4113. Report on energy and water savings potential from thermal insulation: This section directs the DOE to submit a report within 1 year on the impact of thermal insulation on both energy and water use systems for potable hot and chilled water in Federal buildings and on the return on investment of installing the insulation. The report must include: (1) an analysis based on the cost of municipal or regional water for delivered water and the avoided cost of new water; and (2) a summary of energy and water savings, including short-term and long-term (20 years) projections of such savings.

Sec. 4114. Federal purchase requirement: This section expands the definition of "renewable energy" in section 203 of the Energy Policy Act of 2005 to include thermal energy and qualified waste heat resources. The section also modifies the term "municipal solid waste" by excluding certain commonly recycled paper.

CHAPTER 2—ENERGY EFFICIENT TECHNOLOGY AND MANUFACTURING

Sec. 4121. Inclusion of Smart Grid capability on Energy Guide labels: This section directs the Federal Trade Commission to initiate a rulemaking to develop Energy Guide labels that promote the smart grid capabilities of certain products.

Sec. 4122. Voluntary verification programs for air conditioning, furnace, boiler, heat pump, and water heater products: This section requires the DOE to recognize voluntary verification programs for air conditioning, furnace, boiler, heat pump, and water heating products to demonstrate compliance with DOE energy efficiency and conservation standards and the Energy Star program.

Sec. 4123. Facilitating Consensus Furnace Standards: This section provides gas furnace stakeholders the opportunity to continue negotiations to facilitate the proposal for adoption of gas furnace standards that enjoy consensus support, while not delaying the current rulemaking, except to the extent necessary to provide such opportunity.

Sec. 4124. Future of Industry Program: This section directs DOE-funded higher education-based Industrial Assessment Centers (IACs) to identify opportunities for optimizing energy efficiency and environmental performance, including implementation of information technology advancements for supply chain analysis, logistics, system monitoring, and industrial and manufacturing processes. IACs also are directed to coordinate with the Manufacturing Extension Partnership Centers of the National Institute of Standards and Technology and DOE's Building Technologies Program to increase partnerships with the national laboratories and energy service and technology providers to leverage private sector expertise.

CHAPTER 3—ENERGY PERFORMANCE CONTRACTING

Sec. 4131. Use of energy and water efficiency measures in Federal buildings: This section:

- Requires DOE to report on the status of each Federal agency's energy savings performance contracts and utility energy service contracts, the investment value of such contracts, the guaranteed energy savings for the previous year as compared to the actual energy savings for the previous year, the plan for entering into such contracts in the coming year, and information explaining why any previously submitted plans for such contracts were not implemented;

- Prohibits Federal agencies from limiting the recognition of operation and maintenance savings associated with systems modernized or replaced with the implementation of energy conservation measures, water conservation measures, or any series of energy conservation measures and water conservation measures;

- Clarifies that Federal agency payments of energy, water and wastewater treatment expenses, pursuant to an energy savings performance contract or utility energy service contracts shall include related operation and maintenance expenses; and

- Revises the definition of "energy savings" to include (1) the use, sale, or transfer of energy incentives, rebates, or credits (including renewable energy credits) from governments or utilities; and (2) any revenue generated from a reduction in energy or water use, more efficient waste recycling, or additional energy generated from more efficient equipment.

CHAPTER 4—SCHOOL BUILDINGS

Sec. 4141. Coordination of energy retrofitting assistance for schools: This section amends the Energy Policy and Conservation Act to direct DOE to establish a clearinghouse to disseminate information regarding available programs and financing mechanisms that may be used to help initiate, develop, and finance energy efficiency, distributed generation, and energy retrofitting projects for schools. DOE must: (1) consult with appropriate agencies to develop a list of programs and financing mechanisms that are, or may be, used for the projects, and (2) coordinate with appropriate agencies to develop a collaborative education and outreach effort to streamline communications and promote the programs and financing mechanisms.

SUBTITLE B—ACCOUNTABILITY

CHAPTER 1—MARKET MANIPULATION, ENFORCEMENT, AND COMPLIANCE

Sec. 4211. FERC Office of Compliance Assistance: This section requires FERC to establish an Office of Compliance Assistance and Public Participation headed by a Director who shall be responsible for promoting improved compliance with Commission rules and orders by, among other things, providing entities regulated by the Commission the opportunity to obtain timely compliance guidance; making recommendations with respect to market behavior and enforcement; issuing reports and guidance; and performing outreach to regulated community.

CHAPTER 2—MARKET REFORMS

Sec. 4221. GAO study on wholesale electricity markets: This section requires the Government Accountability Office to study whether and how the market rules, practices, and structures of regional transmission organizations produce rates that are just and reasonable.

III. STAFF CONTACTS

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