



Buyers Up • Congress Watch • Critical Mass • Global Trade Watch • Health Research Group • Litigation Group
Joan Claybrook, President

April 7, 2004

RE: Request for ethics investigation involving Westar Energy

Dear Representative:

Nearly 10 months ago, Public Citizen requested both the House Committee on Standards of Official Conduct and the Department of Justice to initiate investigations into possible violations of House ethics rules, as well as federal law governing the exchange of money in return for official favors, by Majority Leader Tom DeLay (R-Texas) and Reps. W.J. "Billy" Tauzin (R-La.) and Joe Barton (R-Texas) regarding Westar Energy Corporation. The House ethics committee has never acknowledged the complaint, and no action appears to have been taken by either agency.

Despite objections from Public Citizen and a coalition of groups seeking greater ethical accountability in Congress, the House ethics committee has announced that it will adhere to its 1997 rule to reject ethics complaints against House members filed by any citizen other than a member of Congress. Public Citizen is therefore sending copies of the original complaints to you, and all other Representatives, requesting that you initiate an investigation by the House ethics committee according to Committee Rule 15(d) into Westar's planned vote-buying scheme.

Under intense public pressure, the House ethics committee has decided to look into one alleged bribery scandal involving the Medicare prescription drug vote.

We ask that the House ethics committee also conduct a fair and appropriate investigation into the events that led to the allegations of vote buying involving Westar Energy, and that you encourage the committee through a formal inquiry not to ignore its mission.

On June 17, 2003, Public Citizen submitted the attached complaints, along with accompanying materials, to the House ethics committee and the Department of Justice urging an investigation into possible violations of U.S. House Rule XLIII, Code of Conduct, Section 3 [restricting the receipt of personal benefit by virtue of influence improperly exerted from a position in Congress], as well as 18 U.S.C. §201(b)(1) and (2) [prohibiting exchanging official favors for personal benefit].

In brief, e-mails released by the company as part of an internal fraud investigation outline Westar's plan to buy a "seat at the table" in a House energy conference committee by contributing cash to influential lawmakers in exchange for their support of a special regulatory exemption. The exemption would have enabled Westar to split its regulated utility from the rest of its businesses. Under this move, executives would have reaped millions while \$3 billion in

unrelated debt would have been transferred to the utility company, saddling consumers with higher electricity rates.

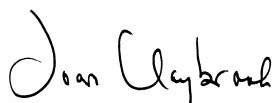
The company e-mails also say that Reps. DeLay, Tauzin and Barton requested that Westar make contributions to their political allies instead of to their own campaigns. Westar executives complied by contributing a total of \$63,000, following a carefully drawn schedule for how much each executive was to donate to the various candidates across the country. The contributions included an additional \$25,000 soft money donation to Rep. DeLay's TRMPAC for use in Texas state elections.

Rep. Barton acknowledged inserting the special provision for Westar into energy legislation that was pending in a House-Senate conference committee in September 2002, even though it had never passed in either the House or Senate bills. The provision would have exempted only Westar from regulation under the Investment Company Act, a statute designed to protect company shareholders. When Rep. Ed Markey (D-Mass.) objected to the Westar exemption, Rep. Barton cast the deciding votes by proxy on behalf of Reps. DeLay, Tauzin, himself and four others to keep the provision in the conference bill. The provision was only removed shortly thereafter by House Republicans after revelations that the company was under a Securities and Exchange Commission criminal investigation for corporate fraud became public.

The prosecution against corporate fraud by several of Westar's executives is on-going, with the company's CEO recently sentenced to prison. But no one – other than the public – is looking at the possible vote buying that may have occurred in Congress concerning Westar Energy. To preserve the public's confidence in the integrity of the House of Representatives, it is important that this matter be addressed.

The public is apparently helpless to make this happen. Only you, or a colleague, may request that the House ethics committee investigate potential violations of ethics rules by its Members. Please act in the best interests of your constituents and the institution of Congress by favorably considering this request.

Sincerely,



Joan Claybrook
President, Public Citizen