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## Section-by-Section Analysis of Key Provisions Affecting Consumers in the Senate's Energy Policy Act of 2005 (S.10), June 8, 2005 version

### Title III – Oil & Gas

#### Subtitle B, Section 312—Program On Oil And Gas Royalties In-Kind

This section would replace the current obligation of oil and gas companies to pay cash to taxpayers for the privilege of drilling on public land with in-kind contributions. This proposal has its origins in emails from Jim Ford, lobbyist for the American Petroleum Institute, to Joe Kelliher, then Department of Energy liaison to Vice President Cheney's Energy Task Force (and now appointed by President Bush to serve as a Commissioner at the Federal Energy Regulatory Commission).

The oil lobbyist's email to Kelliher recommended promoting and expanding the federal government's royalty in kind pilot program. The program allows corporations drilling for oil on public land to forgo paying cash royalties to taxpayers. Instead, companies provide an amount of the oil as an in-kind contribution to the federal government. Since federal land supplies one-third of the oil and gas produced in the United States, expansion of this program could have a significant impact on the federal treasury.

The Bush Administration accepted the lobbyist's recommendation, as the National Energy Policy requests that the Secretary of the Interior "explore opportunities for royalty reductions." A recent Government Accounting Office report, however, criticizes the current royalty in kind program, concluding that the government is unable to determine whether taxpayers receive a fair shake from the program. For example, the GAO concluded that since the pilot program currently "relies upon royalty payers to self-report the amount of oil and gas they produce, the value of this oil and gas, and the cost of transportation and processing that they deduct from royalty payments, there are concerns about the accuracy and reliability of these data." ("A More Systematic Evaluation of the Royalty-in-Kind Pilots is Needed," GAO-03-296, January 2003)

Indeed, the industry's cheerleading for the royalty in-kind program stems from recent court decisions that found U.S. oil companies, equipped with an "honor system" self-reporting system, routinely underreported the volume of oil and natural gas removed from taxpayer land, therefore allowing the companies to cheat the public. By seeking to end cash payments for the privilege of drilling on public land altogether, it appears as though the oil companies are attempting to hedge their losses from the embarrassing court decisions.

**Subtitle B, Section 314—Incentives For Natural Gas Production From Deep Wells In The Shallow Waters Of The Gulf Of Mexico,**  
**Section 315—Royalty Relief For Deep Water Production, and**  
**Section 316—Alaska Offshore Royalty Suspension**

Provides taxpayer incentives and royalty relief to oil and gas companies to drill deep wells in the Gulf of Mexico and off the coast of Alaska—despite record high prices for oil and natural gas.

**Subtitle E, Section 381—Exportation Or Importation Of Natural Gas**

Severely limits the ability of local communities and states to have adequate say over the siting of controversial Liquefied Natural Gas (LNG) facilities. The section states that the Federal Energy Regulatory “Commission shall have the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of facilities located onshore or in State waters for the import of natural gas”

[http://www.citizen.org/cmep/energy\\_enviro\\_nuclear/electricity/Oil\\_and\\_Gas/lng/](http://www.citizen.org/cmep/energy_enviro_nuclear/electricity/Oil_and_Gas/lng/)

**Title IV – Coal**

**Subtitle A, Section 401—Authorization Of Appropriations**

Allocates \$1.8 billion in taxpayer money to help build new coal power plants.

**Subtitle A, Section 405—Integrated Coal/Renewable Energy System**

Provides taxpayer-guaranteed loans for a coal project. The most likely beneficiaries of this provision are North Dakota-based Basin Electric Power Cooperative and Ohio-based Nacco Industries. Basin Electric Power Cooperative owns the Great Plains Synfuels facility in Beulah, North Dakota, an alternative fuels plant originally financed mostly by the federal government and later sold to the Cooperative for a fraction of the amount invested in the plant. The plant gasifies lignite coal to produce synthetic natural gas as well as fertilizers and other chemicals. Nacco Industries would benefit from the loan guarantees because it has long-term contracts to supply Basin Electric with lignite from the nearby Freedom Mine, which Nacco owns. In addition, Basin Electric and Nacco Industries co-own the Antelope Valley Station, a coal-fired power plant at the same location as the Great Plains Synfuel Plant and the Freedom Mine. Since 2001, Basin Electric and Nacco Industries have contributed over \$100,000 to federal politicians, with contributions evenly split between Republicans (51%) and Democrats (49%).

**Subtitle A, Section 407—Western Integrated Coal Gasification Demonstration Project**

Inserted by Democratic Senator Ken Salazar, this provision provides federal financing for a “demonstration project” using coal gasification. The section requires that the facility be “located in a Western State at an altitude of greater than 4,000 feet above sea level.” The language was provided to Sen. Salazar by corporate lobbyists representing PacifiCorp and Xcel.

## **Title VI – Nuclear Matters**

### **Subtitle A, Section 602—Extension Of Indemnification Authority**

Reauthorizes the Price-Anderson Act for new reactors licensed before December 31, 2025 and for Department of Energy contractors through December 31, 2025. Price-Anderson artificially limits the amount of primary insurance that nuclear operators and DOE contractors must carry and caps the liability of nuclear operators and DOE contractors in the event of a serious accident or attack, leaving taxpayers on the hook. Despite the claims that the next generation of nuclear power plants will be “inherently safe,” the industry has stated that it will not build any new plant without limited liability. *More information about Price-Anderson.*

<http://www.citizen.org/documents/priceandersonbackgrounder.pdf>

### **Subtitle A, Section 603—Maximum Assessment**

Ostensibly increases the total liability of nuclear operators in the event of an accident from \$63 million to \$95.8 million, but the Nuclear Regulatory Commission already revised its Price-Anderson regulations to this amount on August 4, 2003. Increases the annual liability cap from \$10.8 million to \$15 million. A 1982 federally-funded study, known as CRAC-2, by Sandia National Laboratory estimated that damages from a severe nuclear accident could run as high as \$314 billion – or more than \$600 billion in 2004 dollars.

### **Subtitle A, Section 604—Department of Energy Liability Limit**

Sets the total liability limit of the federal government at \$10 billion (with inflation adjustments) per incident, including covering the legal costs of the DOE contractor. Current law does not set a cap on the government’s liability.

### **Subtitle A, Section 608—Treatment Of Modular Reactors**

Provides incentives for “modular” reactor designs (such as the pebble bed reactor, which has never been built anywhere in the world) by allowing a combination of smaller reactors to be considered one unit, thus lowering the amount that the nuclear operator is responsible to pay under Price-Anderson.

### **Subtitle B, Section 622—Safe Disposal Of Greater-Than-Class C Radioactive Waste**

Requires DOE to report to Congress within one year on costs and schedule of preparing an environmental impact statement and record of decision for a permanent disposal facility for Greater-Than-Class C radioactive waste. Currently, some of this waste is being accepted for disposal at Barnwell, a shallow radioactive waste dump in South Carolina. Some of the waste is slated for disposal at the proposed Yucca Mountain high-level waste repository in Nevada, but this program is seriously delayed and mired in a data falsification scandal.

### **Subtitle B, Section 624—Decommissioning Pilot Program**

Authorizes \$16 million for DOE to set up a pilot program for decommissioning and decontaminating the the sodium-cooled fast breeder experimental test-site reactor in Arkansas.

### **Subtitle C—Next Generation Nuclear Plant Project**

Authorizes more than \$1.25 billion from FY2006 to FY2015 and “such sums as are necessary” from FY2016 to FY2021 for a nuclear plant in Idaho to generate hydrogen fuels. Requires DOE to complete construction by September 30, 2021. Hydrogen has a long-term potential (in 50 years or more) to help reduce the country’s reliance on foreign oil, but using nuclear power or fossil fuel to produce hydrogen makes a mockery of these clean energy goals.

## **Title VII – Vehicles and Fuels**

### **Subtitle A—Existing Programs**

Makes no changes to the Corporate Average Fuel Economy (CAFE) credit program, and does nothing to raise fuel economy standards for passenger vehicles—the most important measure for reducing our dependence on foreign oil.

## **Title IX – Research and Development**

### **Subtitle D, Section 941—Nuclear Energy**

Authorizes \$1.18 billion over 3 years for nuclear power research, development, demonstration, and commercial application activities, of which \$580 million are allocated for reprocessing; \$149.7 million for nuclear energy fellowships and research infrastructure; and \$18 million for a survey of industrial applications of radioactive sources and a research and development plan for small particle accelerators. Authorizes another \$420 million over three years for nuclear infrastructure. Total authorization in this section = \$1.6 billion.

### **Subtitle D, Section 942—Nuclear Energy Research Programs**

Requires DOE to implement several nuclear energy research programs:

- Nuclear Energy Research Initiative, a research and development program for nuclear energy
- Nuclear Energy Plant Optimization Program, a research and development program on reliability, availability, productivity, aging, safety, and security of existing nuclear plants
- Nuclear Power 2010, which promotes the construction and operation of new nuclear power plants by 2010 and provides taxpayer money for half the cost of license applications. Requires collaboration with National Laboratories, other countries, universities, and industry; and consideration of a variety of reactor designs “suitable for both developed and developing nations”
- Generation IV, to develop new reactors designs, including “proliferation-resistant” and “passively safe” designs
- Research on designs for reactors capable of producing hydrogen

This section also requires DOE to report to Congress on strategy for facilities of the Office of Nuclear Energy, Science, and Technology for fiscal year 2006, including an evaluation of existing facilities and need for new facilities.

**Subtitle D, Section 943—Advanced Fuel Cycle Initiative**

Authorizes the DOE to conduct research and development on reprocessing and transmutation technologies (alternatives to aqueous reprocessing technologies). Reprocessing, a process in which uranium and plutonium are separated from spent fuel, creates serious environmental problems and proliferation risks. Tanks containing the waste created during reprocessing at Hanford in Washington and the Savannah River Site in South Carolina are leaking and threaten to contaminate important drinking water sources. Moreover, the only commercial reprocessing plant in the United States, at West Valley, New York, was an economic failure, in addition to being an environmental disaster.

**Subtitle D, Section 944—Nuclear Science And Engineering Support For Institutions Of Higher Education**

Directs DOE to invest in human resources and infrastructure in the nuclear sciences and engineering fields through fellowships and visiting scientist programs; collaborative research with industry, National Laboratories, and universities (Nuclear Energy Research Initiative); R&D programs on the full fuel cycle (e.g., reprocessing); outreach; upgrading and sharing of research reactors; technical assistance; and funding. This program would further subsidize the nuclear industry and entrench nuclear power research within the university system.

**Subtitle D, Section 945 – Security of nuclear facilities**

Directs DOE to implement a research and development program on technologies to increase the safety of nuclear facilities from natural phenomena and the security of nuclear facilities from attacks. This section fails to address the urgent security upgrades that need to be immediately implemented, such as the protection of reactors from air attack; the vulnerabilities of the spent fuel pools; and the conflict-of-interest caused by hiring the same company, Wackenhut, to both guard and test guards at almost half of the nuclear plants in the country.

**Subtitle D, Section 946—Alternatives To Industrial Radioactive Sources**

Requires DOE to report to Congress on the results of a survey of industrial application of large radioactive sources, including well-logging sources and a plan for an R&D program to develop alternatives to these sources, including miniaturized particle accelerators for industrial applications and portable accelerators for production of short-lived radioactive materials.

**Subtitle E, Section 951—Fossil Energy**

Authorizes \$1.82 billion over 3 years “to carry out fossil energy research, development, demonstration, and commercial application activities.”

**Subtitle E, Section 952—Oil And Gas Research Programs**

Allocates \$140 million for subsidies to oil companies for exploration and production and other oil company activities.

**Subtitle E, Section 953—Methane Hydrate Research**

Allocates a number of different subsidies, including \$165 million in taxpayer handouts, to encourage coal-bed methane development.

**Subtitle E, Section 954—Research And Development For Coal Mining And Technologies**

Provides \$60 million in taxpayer subsidies to develop new coal mining technologies.

**Subtitle E, Section 955—Coal And Related Technologies Program**

Authorizes \$891 million in taxpayer subsidies for new coal power plants.

**Subtitle E, Section 956—Carbon Dioxide Capture Research And Development**

Promotes the untested and controversial carbon sequestration program, where carbon dioxide is stored underground - with no guarantee that the huge amounts of underground carbon dioxide won't escape to the surface or have unintended environmental impacts.

**Subtitle F, Section 962—Fusion Energy Sciences Program**

Declares it the policy of the United States to research and develop fusion energy. Requires DOE to submit a plan to Congress in 180 days for the implementation of this policy. Authorizes DOE to negotiate an agreement for the United States to participate in the ITER (International Fusion Energy Project). Requires DOE to request a review of its plan for participation by the National Academy of Sciences. Canada, China, Europe, Japan, Russia, and South Korea are part of the ITER program, which has the mission “to demonstrate the scientific and technological feasibility of fusion energy for peaceful purposes” (i.e., electricity). After much dispute, the countries recently agreed to site the facility at Cadarache in France. Requires DOE to submit a plan for a domestic burning plasma experiment if negotiations on the ITER fail. The fusion process requires deuterium and tritium, and would produce low-level radioactive waste. Authorizes \$1.088 billion for the Fusion Energy Sciences program over 3 years and another \$265 million for construction costs (Section 961).

**Title X – DOE Management****Section 1002—Cost Sharing**

Requires at least 20% “cost-sharing” with non-Federal sources for research and development projects and at least 50% “cost-sharing” for demonstration and commercial application projects.

**Section 1004—External Technical Review Of Department Programs**

Directs DOE to establish one or more advisory boards to review its R&D, demonstration, and commercial application programs, or to designate an existing advisory board, or to arrange for the National Academy of Sciences to establish an advisory board. Requires that the advisory board “represent a diverse range of interests,” but does not specifically require representation of members of the public or public interest groups with expertise in area.

### **Section 1005—Improved Technology Transfer of Energy Technologies**

Requires DOE to use 0.5 % of its annual budget for matching funds with private partners to promote “promising technologies” for commercial use.

### **Section 1010—Improved Coordination and Management of Civilian Science and Technology Programs**

Establishes a new “Assistant Secretary for Nuclear Energy” position. Establishes a sense of Congress that DOE missions in nuclear energy should be at the Assistant Secretary level.

## **Title XI – Personnel and Training**

### **Section 1101—Workforce Trends and Traineeship Grants**

Requires DOE to monitor trends and report to Congress on shortage of skilled technical personnel within the energy technology sector, including the nuclear power, oil and gas, coal, renewable, and efficiency industries. Authorizes \$60 million over three years for DOE to give grants to train technical personnel in which a shortage is identified.

## **Title XII – Electricity**

### **Subtitle A, Section 1211—Electric Reliability Standards**

Establishes electric reliability organizations (EROs) that enforce reliability standards overseen by FERC, thereby improving communication between operators of power plants and transmission lines. This is the only component of the electricity section that effectively addresses some of the root causes of the August 2003 power blackouts that affected the Midwest and Northeast. Importantly, the section does not allow FERC “to order the construction of additional generation or transmission capacity” in order to improve these reliability standards—an important check on FERC’s jurisdiction.

### **Subtitle B, Section 1221—Siting of Interstate Electric Transmission Facilities**

Overturns nearly a century of local control over the siting of electric transmission lines, authorizing FERC to overrule local and state governments. This section also allows such projects to acquire rights-of-way through eminent domain and authorizes FERC to issue a permit for a facility if a state takes longer than one year to review the application, or if a state places certain conditions on the permit for approval.

### **Subtitle C, Section 1232—Regional Transmission Organizations**

Promotes anti-consumer Regional Transmission Organizations (RTOs). These multi-state organizations seek to control transmission for use by power marketers—not for consumers or reliability.

### **Subtitle C, Section 1233—Federal Utility Participation in RTOs**

Allows the Secretary of Energy to unilaterally commit federal Power Marketing Agencies (PMAs) into RTOs. Forcing these inexpensive, publicly-owned PMAs into RTOs has been a dream of power marketers who seek to exploit RTOs for their own profit at the expense of consumers.

**Subtitle C, Section 1234—Standard Market Design (SMD)**

Terminates FERC’s SMD rulemaking. SMD is a controversial deregulation proposal that would federalize the nation’s electrical grid, kicking states out of their traditional role in protecting consumers.

**Subtitle C, Section 1235—Native Load Service Obligation**

This protects the rights of those electric utilities that remain vertically-integrated, state-regulated monopolies to prioritize the use of their transmission lines to serve their local customers. This is an important protection; however, when it is coupled with repeal of PUHCA (Subtitle F), it may result in providing too much power to these state-regulated monopolies.

**Subtitle D, Section 1241—Transmission Rate Reform**

Allows a monopoly industry—transmission line owners—to charge consumers more by replacing cost-of-service ratemaking with incentive-based rate making. But cash “incentives” are meaningless in an inherently monopolistic industry like transmission. Rather than improve reliability (as is its stated purpose), this incentive-based ratemaking will simply act as a tax increase on consumers—with consumers receiving no guarantee that the higher rates they will be paying will lead to better service. This rate increase on consumers will be charged not only by builders of new transmission lines, but owners of existing lines will be able to now pass on higher rates for routine maintenance and operation costs. The August 2003 blackout was caused not by inadequate transmission line capacity but by poor management of power across plentiful lines—a problem associated with deregulation. This section ignores the recent experience of the telecom industry, which went on a billion-dollar building spree of cable lines following the deregulatory Telecommunications Act of 1996. But the building spree in the inherently monopolistic lines sector resulted in massive over-capacity, which directly led to the crash of many telecommunications companies.

**Subtitle D, Section 1242—Participant Funding**

Promotes so-called “participant funding,” by which owners of power plants will be responsible for the costs associated with hooking their power plant up to the grid. The alternative plan, rejected by the Senate, would “socialize” all costs associated with hooking plants up to the grid among all market participants. Participant funding benefits vertically integrated companies—including Southern Company and Entergy—that have a monopoly in a region forcing any potential generation supply competitor to not only cover its own costs but also contribute to the costs of the entire grid.

**Subtitle E—Amendments to PURPA**

Overall, elements of this section erroneously emphasize that policies like “net metering” and “smart metering”—where consumers have access to “real time” information on electric rates, theoretically allowing consumers to “choose” the “cheapest” power—can help solve America’s skyrocketing energy demand. While this may be true for large users of power (like industrial consumers), it won’t work for household electricity consumers, because the bulk of their power use is not elective, but rather mandatory (running air

conditioning, computers, lights, etc.). Economists therefore refer to household consumers as having inelastic demand. Since households must use a core amount of power to satisfy their basic needs, they do not have the luxury of being able to “choose” a less expensive time to keep their homes warm or cool, to cook their meals, to power their lights and computers. All net metering will allow household consumers to do is to more effectively see how badly they are getting price-gouged by energy companies in deregulated markets.

#### **Subtitle F, Section 1261—Market Transparency Rules**

This section only directs the FERC to establish an “electronic information system” to collect a very limited amount of information on electricity trading. FERC already was collecting this information when Enron, Reliant Energy, and other companies stole billions of dollars from West Coast consumers in the energy crisis of 2001. Simply collecting information doesn’t stop market manipulation—only re-regulating energy markets and establishing cost-of-service rates will adequately protect consumers. The fact that the FERC is still unable to sort out the extent of company market manipulation five years after the West Coast energy crisis is proof that market-based electricity rates are far too complex for regulators to effectively monitor.

#### **Subtitle F, Section 1262—False Statements; Section 1263—Market Manipulation**

These sections prohibit the filing of false information and round trip trading—neither of which would have done anything to stop what Enron and other energy companies did to contribute to the West Coast energy crisis. The only way for regulators to effectively protect consumers is to end the failed deregulation experiment and re-establish cost-of-service rates.

#### **Subtitle F, Section 1268—Office of Consumer Advocacy**

Establishes an Office of Consumer Advocacy within the U.S. Department of Energy (DOE) to represent the interests of household consumers before the FERC. However, there is little guarantee that such an office under the control of the executive branch will actually be responsive to the true needs of consumers. For example, would such an office argue against market-based rates or mergers? A more effective means to represent consumers would be similar to the “intervener funding” model in California [ <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=puc&group=01001-02000&file=1801-1812> ] where consumer groups would be reimbursed by the DOE or by the FERC for representing the public interest in FERC proceedings. California’s system allows robust representation of consumer interests before regulatory bodies.

#### **Subtitle H—Repeal Of PUHCA And Merger Reform**

The 70-year-old consumer and investor protection statute would be completely abolished within 6 months, opening up ownership of approximately \$1 trillion worth of electric generation, transmission and distribution assets and natural gas distribution assets to any kind of company, anywhere, for the first time since 1935. At that time, hundreds of Enron-type affiliate and other abuses took place between holding companies and their

utility subsidiaries resulting in the collapse of the holding company empires, which wiped out tens of thousands of investors.

In PUHCA's place, FERC would be given a virtually meaningless right to look at the "books and records" of conglomerates the size of GE, ExxonMobil, J.P. Morgan and Berkshire Hathaway, in the off-chance that FERC could discover whether these vast conglomerates have affiliates whose activities have in any way affected their affiliated utility's rates. State review of such huge companies, the adequacy of which review would clearly be absurd in any case, would have even more restricted rights to look at these affiliated books and records. In addition, the Senate bill would give certain additional merger authority to FERC over generating plants and holding companies. However, without the structural merger standards of PUHCA, which limit the size and geographic scope of utility mergers in order to protect local management and effective regulation, FERC will presumably continue to approve all the utility mergers that it reviews. The only rates state utility commissions will have any control over at all will be distribution facility costs; the rest will be determined by FERC, which has abrogated its rate review to "the market." However, with PUHCA repealed, interstate holding companies will also be free to buy up and consolidate distribution companies. Analysts agree that there will be "substantial consolidation" in the utility industry once PUHCA is repealed, which will effectively eliminate local control and accountability, plus any adequate regulation of rates.

The repeal of PUHCA means we will have again the huge "power trusts," only this time owning *unregulated* utility monopolies, thanks to FERC's wholesale electricity deregulation, and the fact that Congress is rendering meaningless any effective state utility regulation by removing via PUHCA repeal all limits on the creation of gigantic, multi-state utility holding company conglomerates.

## **Title XIV – Incentives**

Authorizes unlimited funding for an unlimited number of taxpayer-backed loan guarantees to energy companies to build energy projects, including nuclear power plants, coal gasification plants, and carbon sequestration technologies. The loan guarantees can cover up to 80% of the cost of the project. This provision authorizes "such sums as are necessary." According to the Congressional Research Service, the taxpayer liability for loan guarantees covering up to 50% of the cost of building six to eight new reactors would be \$14-16 billion. The Congressional Budget Office found that the risk of loan default by the nuclear industry would be "well above 50 percent." If an energy company receiving such a loan guarantee defaults on that loan, the bank to which the loan is owed "shall have the right to demand payment of the unpaid [loan] amount from the Secretary" of Energy. Therefore, taxpayers hold all the risk while energy companies reap all the rewards. According to Section 1403, "Eligible projects" for these taxpayer-guaranteed loans include "advanced fossil energy technology (including coal gasification) . . . advanced nuclear energy facilities [and] carbon capture and sequestration practices."

In addition, this title lays out some very specific recipients of such loan guarantees:

**Section 1403(c)(1)(C)—Excelsior Energy**

Provides \$800 Million in federal loan guarantees to controversial Excelsior Energy [ <http://www.citizen.org/documents/ACF42FD.pdf> ] for a coal power-generating plant (ConocoPhillips is a partner in the project). The DOE awarded the company a \$36 million in October 2004 during an event that appeared to be designed to boost the image of President Bush in Minnesota just weeks before the election.

[[http://www.fossil.energy.gov/news/techlines/2004/tl\\_ccpi2\\_excelsior.html](http://www.fossil.energy.gov/news/techlines/2004/tl_ccpi2_excelsior.html) ]

**Section 1403(c)(1)(B)—Medicine Bow**

Senator Ken Salazar inserted this provision in the energy bill. Corporate lobbyists representing PacifiCorp and Xcel recommended the language to Sen. Salazar. While the intended recipient may be PacifiCorp and/or Xcel (for unannounced projects), another company qualifying for the loan guarantee is the Medicine Bow Fuel & Power project in Wyoming (the section requires that the project “be located in a western State at an altitude greater than 4,000 feet.” Medicine Bow, Wyoming is at an altitude of over 6,500 feet. Medicine Bow is owned by DKRW, a Houston-based firm led by four former Enron executives, including Thomas White. White served as Secretary of the Army from May 2001 to March 2003. Prior to that, he served as vice chairman of one of Enron’s largest divisions, Enron Energy Services (EES).

Under White’s tenure, EES played a major role in the California energy crisis. In 1998, the year he became its vice chairman, EES was America’s 61st largest energy trader. When he left, his division was the 28th largest energy trading firm in the country. Until March 2001, the trading operations of EES were separate from the rest of Enron’s Wholesale Energy unit – meaning White was responsible for a huge trading operation that played a significant role in California’s energy crisis.

Also, under White’s direction, EES severed at least two large retail contracts in California in January/February 2001 during the height of the energy crisis, which Enron helped create. Based on the evidence on hand, it appears that EES took the power that had been obligated to serve these retail consumers and sold it in the wholesale market, where EES could fetch higher prices than it could by continuing to sell power at lower, fixed rates to retail customers. This significant wholesale trading operation, combined with White’s decision to break retail contracts in California, made the division a major player in California’s deregulated wholesale market.<http://www.citizen.org/pressroom/release.cfm?ID=1960>

**Section 1403(c)(1)(D)—EnviRes**

Provides a federal loan guarantee to Lexington, Kentucky-based EnviRes to build a coal gasification facility to create fuel in East St. Louis, Illinois. The total cost of the project is \$254.2 million. EnviRes is a joint venture of three companies, including Triad Research, which, is operated by Robert Addington of AEI Resources, a huge coal conglomerate.