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Joan Claybrook, President

October 16, 2003

Dear Energy Conferee,

On behalf of Public Citizen and our 150,000 members nationwide, I urge you to oppose the energy conference report as it is currently drafted. This sweeping legislation fails to promote safe, clean, affordable energy and will not address our nation's energy problems. Rather, it is merely a multi-billion dollar medley of taxpayer handouts to the nuclear, coal, and oil industries.

Moreover, the manner in which the conference report is being crafted is undemocratic. Sen. Domenici and Rep. Tauzin have hijacked the energy conference, designing legislation with virtually no input from the other members of the committee and slipping in provisions that were not part of either the House or Senate energy bills. Our national energy policy should not be developed by only a few members of Congress and energy industry representatives behind closed doors.

What follows is a discussion of Public Citizen's positions on key provisions in the draft conference report.

Nuclear Matters

Public Citizen opposes provisions in the draft conference report that would force taxpayers to foot the bill for new nuclear reactors, including (1) more than \$1.8 billion for nuclear energy research and development, (2) an extension of the Price-Anderson insurance subsidy for 20 years, and (3) authorization of the U.S. Department of Energy's *Nuclear Power 2010* program to construct new nuclear plants by 2010 and its *Generation IV* program to develop new reactor designs. In a travesty of clean energy goals, the draft conference report also authorizes \$1.1 billion for a cogeneration project to create hydrogen fuel using nuclear power. Hydrogen fuel offers the potential for abundant, affordable, and clean energy, but its promise is corrupted if tied to hazardous nuclear power. More subsidies to the mature nuclear industry are unjustifiable, and the artificial push for developing uneconomical nuclear power would harm taxpayers, consumers, and the environment.

Whistleblower protection is seriously weakened in the draft conference report compared to the Tauzin-Markey whistleblower protection amendment that was unanimously approved by the House. The draft report removes the Department of Energy and the

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Nuclear Regulatory Commission from the definition of “employer” and lengthens the time period allotted to the Department of Labor for issuing a final decision on a complaint from 180 days to 540 days before a claimant can sue in court.

Furthermore, the draft report authorizes \$30 million to fund in-situ leaching mining projects, which would encourage a method of uranium mining that could endanger drinking water in New Mexico. Another draft provision reclassifies radioactive waste from a former uranium extraction plant in Fernald, Ohio, which would allow it to be shipped to Envirocare, the commercial low-level waste dump in Utah. This provision would set a dangerous precedent for arbitrarily reclassifying waste based on convenience, not science, and sending waste to facilities that are not equipped for the particular level of radioactivity involved. Envirocare is licensed to handle only about one-hundredth of the concentration of radioactivity in the Fernald waste. Neither of these provisions were in the House or Senate energy bills.

Despite the fact that President Bush has repeatedly described nuclear nonproliferation as a cornerstone of U.S. national security policy, the draft conference report contains \$865 million for research and development of nuclear reprocessing technologies. This reverses three decades of U.S. policy against reprocessing spent fuel, greatly exacerbating proliferation and security concerns. Another provision in the draft conference report would to make it easier to spread bomb-grade uranium worldwide by eliminating constraints on U.S. exports of the material.

Electricity

While the draft electricity and tax titles are not yet completed, we are concerned about several provisions likely to be in the final conference report. First and foremost, Public Citizen strongly opposes the repeal of the Public Utility Holding Company Act (PUHCA). As a cornerstone of protection for both electricity consumers and utility investors, PUHCA has brought stability to the electricity industry for more than six decades and has established conditions that foster reliable and affordable electricity. Completely repealing PUHCA would allow huge corporations to buy up local utilities across the country, making this one of the most lucrative provisions in the bill. Consumers would be left vulnerable to the type of market manipulation and profiteering that characterized the West Coast energy crisis, as well as potential blackouts, and shareholders would be exposed to poor investments and corporate fraud. Out of concern about the threat PUHCA repeal will have on the ability of states to protect consumers, 45 organizations from around the country recently signed a letter urging Congress to not only preserve PUHCA, but to strengthen and enforce it.

Public Citizen strongly supports mandatory and enforceable National Transmission Reliability Standards as an important response to the August 2003 blackout in the Midwest and Northeast. This provision, which enjoys strong bi-partisan support in both the House and Senate, should be offered as stand-alone legislation. However, other provisions in House energy bill related to transmission siting and rates would do nothing to substantively address electricity reliability. Granting the Federal Energy Regulatory Commission the power of eminent domain for transmission siting would eliminate local

and state authority. Moreover, altering the Federal Power Act's definition of "just and reasonable rates" to allow owners of transmission lines to charge consumers more for their use would be a huge giveaway to utilities.

Vehicles and Fuels

The energy bill presents a critical opportunity to establish meaningful fuel economy standards for motor vehicles, which would ease dependence on foreign oil, save Americans money at the pump, and decrease emissions of greenhouse gases. Instead, the draft conference report hinders the government's ability to set meaningful fuel economy standards by adding new hurdles that are redundant and burdensome, inviting litigation by the automobile industry. The draft report also extends the fraudulent program that provides flexible fuel credits for dual fuel automobiles, an enormous loophole which could decimate any savings from the Bush administration's puny fuel economy increase. Manufacturers are now ramping up the number of dual fuel vehicles produced, even though there are few outlets where consumers can purchase the alternative fuel. In comparison, Sen. Durbin proposed an amendment to the initial Senate energy bill (S.14) that would have increased fuel economy standards for passenger cars, SUVs and minivans to 40 miles per gallon (mpg) and for pickup trucks to 27.5 mpg by 2015. This would have significantly reduced dependence on imported oil and production of greenhouse gases. Moreover, the provisions in the automobile efficiency subsection are vastly underfunded – a mere \$10 million over five years.

Public Citizen also strongly opposes a provision that would provide liability protections for the manufacturers of the gasoline additive methyl tertiary butyl ether (MTBE), which is a known drinking water contaminant. The House-sponsored language would prevent the public from holding manufacturers accountable for environmental contamination, running counter to the decades-old principle that the polluter must pay for the cost of cleanup. An MTBE liability waiver would be, in effect, an enormous subsidy to the petroleum industry. A study conducted for the City of Santa Monica estimated that a nationwide cleanup of MTBE from drinking water wells would cost at least \$29 billion, a cost that could be incurred by struggling municipalities if the MTBE manufacturers are given legal immunity.

Energy Efficiency

A sound national energy policy would include greater reliance on renewable energy and increased investment in energy efficiency. But absent from the conference report is a renewable portfolio standard (RPS), which is widely supported in the Senate. This obvious deficiency prompted 53 senators, including eight Republicans, to send a letter to Sen. Domenici and Rep. Tauzin opposing the decision to strip the conference report of the RPS. By knocking out support for renewable energy, the bill is reduced to nothing more than a package of subsidies and special deals for the fossil fuel and nuclear industries.

Coal and oil

It is fiscally and environmentally irresponsible to further subsidize the polluting oil and gas industry. Yet, the draft conference report authorizes \$500 million in loans (\$400

million more than the House bill) to subsidize oil and gas development. Furthermore, the draft report does not specify interest rates or repayment schedules, and could potentially cost taxpayers millions of dollars. It also leaves taxpayers with no guarantee that the loans will ever be repaid by omitting a House measure that would have required debtors to use revenue to repay the federal government for development loans.

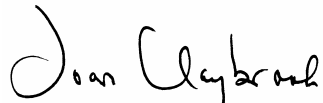
Moreover, Public Citizen opposes the draft report's directive to the Interior Department to inventory oil and natural gas in the outer continental shelf off the U.S. coast. Currently, a federal moratorium prevents new leasing for offshore drilling along the entire east and west coasts, as well as 95% of the eastern Gulf of Mexico. This provision, which was in neither the House nor Senate energy bills, would essentially open the door to offshore drilling in our ecologically-sensitive coastal areas.

The draft conference report would also undermine environmental laws that protect our water resources. In particular, the draft language exempts the coalbed methane drilling technique called hydraulic fracturing – a potential polluter of underground drinking water – from the Safe Drinking Water Act. In addition, oil and gas exploration would no longer require a permit under the Clean Water Act. These provisions would be a huge gift to big oil and gas producers, such as Halliburton Co.

Incredibly, the draft conference report authorizes drilling in the Arctic National Wildlife Refuge, despite strong bi-partisan opposition in the Senate. This provision, if enacted, would destroy pristine wilderness for a mere six-month supply of oil.

I urge you to vote against any energy conference report that contains these harmful provisions. In addition, I urge you to oppose the numerous other special interest delicacies being added to the draft conference report, which are in neither the House nor Senate bills. Congress must reject this regressive legislation. Americans deserve an energy policy that truly addresses the needs of consumers and the quality of the environment by promoting safe, clean, and affordable energy while encouraging conservation and efficiency. This bill does the opposite.

Sincerely,



Joan Claybrook

cc: Members of Congress