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Why Reps. Billy Tauzin and Joe Barton Should Recuse Themselves From Further Involvement in the Energy Conference Committee

Congress Should Institute Reforms in Conference Committee to Address Westar Scandal in Last Year's Energy Bill Conference

Public Citizen maintains that two members of Congress who acted consistently with the Westar Energy bribery plan during the 2002 energy bill conference committee (Reps. W.J. "Billy" Tauzin of Louisiana and Joe Barton of Texas) should recuse themselves from participation in the current energy bill conference committee.

Public Citizen also demands that the House-Senate energy conference committee explicitly forbid lawmakers from writing legislation that benefits a single company and hold the entire proceedings in a venue open to the media and the public.

The conduct of last year's House energy conference committee members — specifically, Reps. Tom DeLay, Tauzin and Barton — requires these reforms. During last year's proceedings, some of which occurred behind closed doors, these three lawmakers inserted into the energy legislation and defended language not included in either the House- or Senate-passed bills that provided an exemption from federal law for a single company, Westar Energy. According to internal company e-mails written by a top executive, Westar schemed to obtain the exemption by sending more than \$60,000 to campaigns and fundraising organizations affiliated with DeLay, Tauzin and Barton, as well to the campaigns of congressional Republican allies of the three (Westar's CEO has since been convicted of six felonies).

A top Westar executive wrote in a May 2002 e-mail that the company's plan "requires working with the Conference committee to achieve. We have a plan for participation to get a seat at the table...DeLay is the House Majority Leader. His agreement is necessary before the House Conferees can push the language we have in place in the House bill. [Illinois Republican Rep. John] Shimkus is a close associate of Billy Tauzin and Joe Barton, who are key House Conferees on our legislation. They have made this request in lieu of contributions made to their own campaigns." Westar's top executives and the company's DC lobbyists sent more than \$60,000 to the politicians identified in the e-mails. The memo went on to explain that Westar Energy was to receive an exemption from oversight by the Securities and Exchange Commission (SEC). This exemption was, in fact, subsequently inserted in the conference energy bill by Barton and kept there by vote of DeLay, Tauzin and Barton when it was challenged.

DeLay, Barton and Tauzin designated other “immediate needs” in addition to their own campaigns, according to the released e-mails. For instance, DeLay purportedly designated contributions to Texans for a Republican Majority, the group behind the current redistricting fiasco in Texas. Barton and Tauzin allegedly directed contributions to political allies involved in tight re-election campaigns. In exchange, Westar Energy was to receive the single-company exemption from oversight by the SEC.

This week, the U.S. Supreme Court heard arguments about a campaign finance reform law. For Congress to place limits on types of campaign contributions, such a law must be reasonably required to prevent either the reality or the appearance of corruption of the congressional process.

It is not known whether, in reality, the named lawmakers took “bribes” in exchange for legislative favors; the U.S. Department of Justice and the House Standards of Official Conduct Committee have been asked to investigate these allegations of criminal activity, but no investigation has been announced.

However, there is no question that the giving of the money and the receiving of the single-company favor present the *appearance* of congressional corruption.

The reforms advocated by Public Citizen address the vulnerability of the conference committee process; the closed nature of the proceedings presents a temptation for politicians to bestow favors to well-connected special interests. If Tauzin and Conference Committee Co-Chair Pete Domenici are truly committed to serving the interests of all Americans, they should require conferees to sign a pledge not to write any provisions into the energy bill that have the effect of benefiting a single company. In addition, to ensure that the public does not endure another “blackout,” the conference committee must hold every meeting in which two or more conference committee members discuss the legislation in a forum accessible to the public and the media. Failure to adopt these reforms will mean the American public cannot be certain that the same conference committee members from last year will not grant another Westar-style exemption to an undeserving company.

Such reforms are not without precedent. Many states, including Texas and Louisiana (the home states of DeLay, Tauzin and Barton), limit or forbid the legislature from passing a law bestowing a benefit on a single company. For example, Article III, Section 12 of Louisiana’s constitution states that “the legislature shall not pass a local or special law granting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity. The legislature shall not indirectly enact special or local laws by the partial repeal or suspension of a general law.”

These reforms are especially needed in light of recent public statements by Tauzin and other conference committee members that a handful of Republicans will retain tight control of the process and limit the number of public meetings – and by Domenici’s boast that he will rewrite the bill. By stating that this year’s conference committee will have *less* transparency than last year’s, the public cannot be assured that Congress won’t abuse the process without the reforms Public Citizen seeks.

Finally, the reforms are necessary because Tauzin and others have failed to adequately explain their actions in voting to grant Westar the exemption it requested. Tauzin’s spokesman Ken Johnson in June told the New Orleans *Times-Picayune* that the 2002 energy conference committee legislation “was a 1,500-page bill. [The Westar exemption] was a very small provision. This may have impacted that company, but it didn’t impact national electric policy. That stuff goes to the staff. Every piece of paper that goes to the committee does not cross Billy’s desk...Before today, Billy had never heard of Westar, never met with anyone from Westar and wasn’t aware their language was in the bill.”

Tauzin did, however, cast a vote on Sept. 19, 2002, specifically in favor of keeping the Westar provision in the bill. A second *Times-Picayune* article in June reported that “that Tauzin didn’t know that the provision was specific to any company. [Tauzin spokesman Johnson] said Tauzin was out of the room when negotiators voted.”

While Tauzin and others were making excuses, Westar Energy was adopting reforms. First, the company’s board of directors, fed up with the direction the company had taken under the reins of David Wittig, who is now a convicted felon because of his behavior at Westar, released hundreds of internal company communications implicating Wittig and other top executives in illegal and unethical behavior. The board then filed a demand for arbitration seeking tens of millions of dollars from Wittig and a freeze on his assets (it seems Wittig was selling millions of dollars in Westar stock in an effort to hide his money from the government). And now the board of directors has ordered management to reform the company’s political fundraising policies, banning corporate contributions and forbidding top management from being involved with the company’s political action committee.

If Westar Energy can respond to the scandal by instituting concrete reforms, so can Congress.

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