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**Testimony of ARIPPA  
before the  
House Committee on Energy and Commerce,  
Subcommittee on Energy and Power  
in Support of H.R. 3797 (the SENSE Act)  
February 3, 2016**

Mr. Chairman, Members of the Committee:

Good morning. On behalf of ARIPPA, I would like to thank the Chair and Committee for holding this hearing today on the SENSE Act (H.R. 3797).

My name is Vincent Brisini and I serve as Director of Environmental Affairs for Olympus Power, LLC. Today, I am testifying on behalf of ARIPPA, the trade association representing the coal refuse energy industry. By way of background, and in terms of my perspective on the issues before you today, I have 37+ years of experience in air resources management, in both public service and the private sector. From 2011 to 2015, I served as Deputy Secretary for Waste, Air, Radiation, and Remediation in the Pennsylvania Department of Environmental Protection; and prior to that worked for 33 years as an air quality and environmental manager in the electric generation sector, principally in Pennsylvania.

ARIPPA is the trade association of a very special and unique group of electricity generation facilities which simultaneously serve as environmental remediation facilities. What makes the ARIPPA member facilities special is that we remove unsightly and polluting coal refuse piles from the environment, use that coal refuse as the primary fuel in producing alternative electrical energy and then remediate and reclaim these and other mining affected lands with the resulting beneficial use ash. The

coal refuse to energy process is invaluable because it permanently eliminates the substantial and harmful impacts to air, water and other environmental media, as well as the safety and health impacts, of coal refuse piles. ARIPPA member facilities are located in or near the anthracite or bituminous coal regions of the United States. In the Pennsylvania-West Virginia region, ARIPPA member plants generate approximately 10% of the total electricity produced. The vast majority of these coal refuse to energy facilities are located in Pennsylvania. The attached **ARIPPA Map** of coal refuse-energy facilities demonstrates how these coal refuse-energy facilities are co-located within the abandoned mine lands in Pennsylvania and ideally situated to remediate the environmental harm caused by the coal refuse piles to the numerous watersheds that carry acid mine drainage flowing south and west to the Mississippi River basin and south and east to the Chesapeake Bay.

As noted in the Pennsylvania Department of Environmental Protection's Citizens Advisory Council's 2015 Transition Report, Pennsylvania faces a cost to recover abandoned mine lands of approximately \$16.1 billion. Of that amount, reclaiming coal refuse piles alone represents a burden of approximately \$2 billion or more in Pennsylvania alone. These types of costs can be expected for other coal producing states in the eastern portion of the United States as well.

Because of erroneous assumptions in certain federal environmental regulations, coal refuse-fired power plants are threatened and may lose the ability to continue to provide these publicly-important environmental, safety and health benefits. This is especially true for those coal refuse-fired electric generating units that operate in wholesale electric markets.

Importantly, the coal refuse-fired facilities located in Pennsylvania:

- Include 1500 MW of electrical generation capacity
- Remove and use as fuel 11 million tons of coal refuse annually
- Have used over 205 million tons of coal refuse for fuel, to date

- Have remediated and reclaimed thousands of acres of PA mining affected lands
- Have eliminated acid mine drainage and improved hundreds of miles of PA streams
- Provide over 1200 direct jobs with payrolls in excess of \$84 million per year
- Provide over 4000 indirect jobs in project management, engineering, operations, transportation, logistics and skilled trades
- Provide property tax revenues to support local schools and communities, and;
- Provide over \$10 million per year of business per facility into their local economy – collectively, over \$150 million per year into PA’s economy

H.R. 3797, the proposed “Satisfying Energy Needs and Saving the Environment Act” or “SENSE Act,” seeks to address the sulfur dioxide (SO<sub>2</sub>) allowance allocation errors contained in the Cross-State Air Pollution Rule (CSAPR) and the erroneous assumptions in the Mercury and Air Toxics Standards (MATS) rulemaking with respect to these facilities. Without the SENSE Act, vastly more local and state taxpayer dollars will be required to reclaim the areas blighted by coal refuse and to address the associated environmental, health and safety problems – money that is not available in our states and communities. Federal funding for abandoned mine reclamation is already drying up due to the greatly reduced amount of coal that is being mined, and state and local budgets are simply unable to tackle this daunting challenge. Absent the SENSE Act, the end result would be the death of a private solution to a public problem and the preservation of the coal refuse piles and the continuation of health, safety and environmental harm associated with these sites!

### **Cross-State Air Pollution Rule (CSAPR) - Sulfur Dioxide (SO<sub>2</sub>) Allowances**

In Phase 2 of CSAPR, sulfur dioxide allowance allocations to electric generating units that burn coal refuse from the historic mining and processing of bituminous coal are reduced to levels that cannot

be achieved by these coal refuse-fired units. Absent the ability to economically decide whether to control or purchase allowances from other units, a seller's market for more expensive SO<sub>2</sub> allowances will likely develop which could result in these coal-refuse fired units becoming unable to continue to operate economically.

The SENSE Act mandates that in Phase 2 of CSAPR or in any future revised emissions budget under CSAPR, the bituminous coal refuse-fired electric generating units only be allocated SO<sub>2</sub> allowances at the level provided in Phase 1 of CSAPR. This will ensure that these units aren't unnecessarily forced into retirement because of this error.

To assure that the Phase 2 annual sulfur dioxide emissions budget that has been established by EPA is not compromised, the SENSE Act provides that the Administrator must "re-allocate" sulfur dioxide allowances from the allowance allocations to electric generating units which have been or will be permanently retired or fully converted to burn only natural gas. This will result in a proportional reduction in sulfur dioxide allowance allocations to those units consistent with the number of allowances needed for the re-allocation specified in the SENSE Act.

At the same time, The SENSE Act includes provisions that prevent bituminous coal refuse fired plant owners receiving these CSAPR emission allowances from gaining an economic windfall. It prohibits qualifying plants from transferring any unused CSAPR allowances to other facilities; and, while allowing unused CSAPR allowances to be "banked" for future compliance periods, it requires the surrender of such allowances if a unit permanently retires or switches to natural gas.

### **Mercury and Air Toxics Standards (MATS)**

Although we anticipate that all coal refuse-fired plants can meet the mercury standard under MATS, most of the bituminous coal refuse-facilities cannot meet the rule's standards for hydrogen chloride

(HCl) or its surrogate sulfur dioxide (SO<sub>2</sub>). The problem meeting the SO<sub>2</sub> limits arises from the high variations in sulfur content between anthracite and bituminous coal refuse fuels. The SENSE Act addresses this oversight in the regulation by establishing an additional alternative compliance option for coal refuse facilities burning high sulfur coal refuse tied to the removal and control of SO<sub>2</sub>. Absent this provision, all but one (which burns low sulfur bituminous coal refuse) of the existing bituminous coal refuse generating plants will be non-compliant and forced to shutter their plants. Along with the closure of these plants would be the loss of the multimedia environmental benefits that the plants provide by combining the generation of energy with the removal of coal piles and restoration of land and water resources.

To ensure the continuation of the multi-environmental benefits that the coal refuse fired plants provide through the continued removal, remediation and reclamation of coal refuse piles, the SENSE Act legislation mandates that an alternative, performance based standard be provided for these units to demonstrate compliance with MATS. Specifically, under the SENSE Act, these units would be able to demonstrate compliance with the MATS acid gas requirement by demonstrating a 93% removal of potential sulfur dioxide emissions based on as-fired fuel sampling and continuous emissions monitoring systems measurements. This performance level is consistent with the concepts established by EPA's New Source Performance Standards (NSPS) for SO<sub>2</sub> emissions for new coal refuse plants by providing a similar standard for existing coal refuse units.

This alternative standard must be demonstrated on the same boiler operating day basis as the other acid gas standards in MATS.

## **Conclusion**

The SENSE Act is a reasonable, and well-targeted effort to address the errors that EPA has made in CSAPR and the MATS rule, and is a very important part of ensuring that coal refuse-fired facilities

remain able to conduct their business of reclaiming and recovering these mining affected lands and providing high quality family sustaining jobs in the communities in which these facilities are located. ARIPPA urges you to support the SENSE Act and its passage in this session of the US House of Representatives.

As part of my testimony, and for your records, I am providing to you certain white papers prepared by ARIPPA that more clearly describe the problems associated with Coal Refuse sites (**Annex A.**) and the impacts of the finalized CSAPR (**Annex B.**) and MATS (**Annex C.**) rules on the coal refuse-fired industry.

Thank you again for the opportunity to testify today.

Attachments:

**ARIPPA Map** with PA Plants, MGW & Tons Per Year

**Annex A.** ARIPPA Coal Refuse Whitepaper with Photos 10\_05\_15

**Annex B.** ARIPPA CSAPR Whitepaper 9\_24\_15 (with logo)

**Annex C.** ARIPPA MATS Whitepaper 9\_24\_15 (With Logo)