The Secretary of Energy
Washington, DC 20585

June 27, 2002

The Honorable W.J. "Billy" Tauzin
Chairman, House-Senate Conference on H.R. 4
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Tauzin:

The purpose of this letter is to provide the Administration's views to the House and Senate conference committee on H.R. 4, energy legislation as passed by the House and Senate.

The Administration is pleased that a majority of the provisions of the President's National Energy Policy are included in either the House or Senate versions of H.R. 4. Conferees have an opportunity to pass a balanced, comprehensive energy bill that improves the Nation's energy and economic security, creates jobs and benefits consumers by reducing our reliance on foreign sources of energy, protects the environment, increases conservation, improves energy efficiency, and expands the use of new technologies and renewable energy sources.

Modernization of Wholesale Electricity Laws

The Administration believes a comprehensive energy bill must include a sound electricity title that modernizes our Nation's antiquated wholesale electricity laws. Electricity modernization will increase supply, promote efficiency and renewable energy, improve reliability, and protect consumers. We applaud the Senate for including an electricity title that is a step in the right direction and urge conferees to modify this title to better reach these goals and be consistent with the Administration's objectives.

The Administration supports efforts to ensure open access for all generators to the wholesale electricity grid; establish mandatory and enforceable reliability rules that will reduce the chances for power outages; repeal the Public Utility Holding Company Act (PUHCA), an outdated law that restricts utility investment; and reform Public Utility Regulatory Policies Act (PURPA) in an innovative and competition-friendly manner.

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The Administration is also pleased with the provisions that would strengthen the Federal Energy Regulatory Commission's (FERC) authority to review mergers and prohibit abuses of market power. Furthermore, the Administration will support provisions that will protect consumers against unauthorized disclosure of personal information or unauthorized switching of electricity service and strengthen the FERC's ability to ensure just and reasonable rates. To protect consumers against unethical individuals and companies in this industry, the President has proposed increasing criminal penalties for violating the Federal Power Act from $5,000 to $1 million, from $500 per day to $25,000, and prison terms from two years to five. We strongly urge the conferees to include these provisions in the final bill.

We believe the bill needs to facilitate an effective national electric transmission grid to benefit consumers and continue to believe that last-resort Federal siting authority for high-priority transmission lines is needed.

The Administration supports the Senate bill's proposal clarifying the tax implications arising from the sale or transfer of transmission assets to companies that will operate under a Regional Transmission Organization (RTO). The Administration also supports the Senate effort to eliminate provisions that jeopardize the tax-exempt status of electric cooperatives when they offer nondiscriminatory access to their transmission system. The Administration notes that the Treasury Department is finalizing regulations related to the private use of transmission facilities owned by municipal power authorities.

The Administration supports initiatives to increase the use of renewable fuels in electricity generation. However, we think renewable portfolio standards (RPS) are best left to the States. We oppose the Senate bill's RPS mandate, which would likely raise costs to consumers, especially in areas where these resources are less abundant and harder to cultivate or distribute. The Administration supports renewable energy in electricity production by calling for the three-year extension of the renewable energy production tax credit. A two-year extension of the credit was enacted under the Job Creation and Worker Assistance Act of 2002. In addition to our substantive concerns with an RPS, combining it with the renewable energy production tax credit would be costly and inefficient.

Fleet Fuel Economy

The Administration supports improving fuel economy while protecting passenger safety and jobs. The Corporate Average Fuel Economy (CAFE) provisions in both the House and Senate bills are consistent with the Administration's call to let the National Highway Traffic Safety Administration (NHTSA) set standards that will improve fuel economy while protecting safety and jobs. The Administration emphasizes the importance of allowing NHTSA to develop new CAFE standards in light of the findings and recommendations of the congressionally-mandated National Academy of Sciences (NAS) CAFE report.

The Administration supports the increased use of cleaner burning fuels and vehicles in the Federal Government's automotive fleet. However, we are concerned that provisions in the Senate bill contain timetables and mandates for the penetration of alternative fuel vehicles in the Federal automotive fleet that may be unduly burdensome to administer and expensive to implement.

Renewable Fuels Standard

The Administration supports the renewable fuels standard compromise contained in the Senate bill and urges conferees to adopt it. This provision will increase the use of clean, domestically produced renewable fuels, like ethanol, which will improve the Nation's energy security, farm economy, and environment. The compromise includes a market-based national credit trading mechanism that will increase efficiency and reduce costs. The Administration would oppose changes to the Renewable Fuels Standard provisions that would raise costs and reduce efficiency of the credit-trading program, which is vital to making a renewable energy program for motor fuels economically achievable.

Tax Provisions

The President's energy plan included tax incentives totaling $9.5 billion over 11 years. These were dedicated entirely to alternative and renewable fuels, conservation, energy efficiency and emissions-free energy. The Administration is concerned the House and Senate bills contain tax provisions whose total revenue loss significantly exceeds the Administration's. The House tax provisions total $36.5 billion and the Senate tax provisions total $20.6 billion over 10 years, according to estimates from the Joint Committee on Taxation. Maintaining fiscal discipline, while always important, has taken on increased importance since September 11 as we focus on enhancing national, homeland, and economic security, while returning the budget to surplus. The tax provisions in the final bill should reflect the President's priorities of environmental protection and energy conservation and maintain needed fiscal discipline by not significantly exceeding the President's $9.5 billion total revenue loss.

Alaska Natural Gas Pipeline Subsidy

The Administration supports the construction of a commercially viable Alaska natural gas pipeline and believes market forces should select the route of the pipeline. The natural gas located in Alaska will provide environmentally friendly energy to America for years to come. The Administration recognizes the importance of Alaska natural gas to long-term energy security. However, the Administration strongly opposes the price-floor tax subsidy provision in the Senate bill and any similar provision because it would distort markets, could cost well over $1 billion in annual lost revenue, and would likely undermine Canada's

support for construction of the pipeline and thus set back broader bilateral energy integration.

The Administration urges conferees to develop alternative provisions to bring the gas to market without resorting to similar provisions that would distort markets, could undermine fiscal responsibility, and might jeopardize the expeditious construction of a natural gas pipeline.

Arctic National Wildlife Refuge

A national energy policy cannot rely solely on conservation. A balanced, comprehensive energy plan has to recognize that in order to reduce our rising dependence on imported oil and gas, we must also increase domestic production. The primary provision in the conference that would increase production is the President's proposal to open a small portion of the Arctic National Wildlife Refuge (ANWR) to environmentally responsible oil and gas exploration and development. ANWR is also the primary provision in the conference that would create tens of thousands of new, well-paying jobs for American workers. We applaud the House for providing for the exploration and development of 2,000 acres in a landmass the size of South Carolina using newly available, environmentally friendly technology. ANWR is by far the largest untapped source of domestic petroleum and would equal nearly 40 years of imports from Iraq. The Administration strongly urges the conferees to include the House ANWR provision in the final bill.

Support for ANWR can increase our energy independence. The Administration strongly opposes a unilateral ban on U.S. purchases of Iraqi oil under the United Nations (UN) Oil-for-Food program, as this would only undermine our own interests. Were the United States to cease participation in this humanitarian program, it would work against our efforts to bolster Security Council consensus on Iraq. Such a ban would likely afford Iraq the opportunity to seek more illicit oil sales and revenues outside of UN control. Moreover, a shift of UN Oil-for-Food volumes away from U.S. purchasers would increase, not lessen, the opportunity for Iraq to seek kickbacks outside of the program, which U.S. purchasers are not allowed to pay. The effective way to reduce our energy dependence is to enact the House ANWR provision.

Native American Energy Development

The Administration is interested in working with the conferees on provisions that facilitate Tribal energy development of their renewable and non-renewable natural resources, while enhancing and protecting the environment.

Pipeline Safety

The Administration strongly supports comprehensive pipeline safety legislation and believes it is an important component of our Nation's energy policy. We look forward to working with the House and Senate conferees to resolve outstanding issues related to this legislation so that it may be included in the final conference agreement.

Price-Anderson

The Administration strongly believes that comprehensive energy legislation should include reauthorization of the Price-Anderson Act nuclear liability insurance. The Administration supports language in the Senate bill that reauthorizes Price-Anderson.

Climate

Concerning global climate initiatives, the President recently announced an aggressive plan to reduce the projected growth in U.S. greenhouse gas emissions in the next decade, along with a comprehensive set of domestic and international policy initiatives. He set an aggressive U.S. goal for reducing emissions per unit of GDP by 18 percent by 2012. The President's strategy also includes a United States Climate Change Research Initiative (CCRI), the results of which will help guide and pace future implementing actions, and a National Climate Change Technology Initiative (NCCTI), the R&D elements of which will provide for the foundation, development, and application of future advanced energy and sequestration technology alternatives. The President's plan includes improving the existing Department of Energy registry for reporting and crediting voluntary emissions reductions. Finally, the Administration has a framework for broad collaboration and cooperation, particularly in the areas of climate science research and new technology development, that can be expanded to invite and enable others to join with the U.S. in developing further its strategy relating to policy, voluntary reporting, incentives, science, and technology.

The Administration would support legislation that is consistent with this plan. The climate change titles of the Senate bill are not consistent with the President's climate plan.

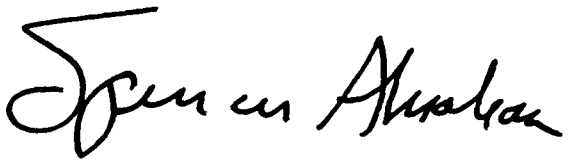
Excessive and New Authorizations for Appropriations

The current bills contain authorizations for appropriations that annually total billions of dollars above the President's request, creating unrealistic expectations, particularly in the current fiscal climate. In addition, both bills include numerous unnecessary, duplicative, and costly new program authorizations. The Administration urges the conferees to limit authorizations for appropriations to levels contained in the President's Budget.

Conclusion

The Administration applauds the House and the Senate for their work on comprehensive energy legislation to date. It urges conferees to give due attention to the Administration's concerns and looks forward to working with them on comprehensive legislation that meets the President's objectives as set forth in the National Energy Policy.

Sincerely,



Spencer Abraham

cc: All House and Senate Members of the Conference