



The Secretary of Energy
Washington, DC 20585

September 10, 2003

The Honorable Pete V. Domenici
Chairman, House, Senate Conference on H.R. 6
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's view to the House and Senate conference committee on H.R. 6, energy legislation 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. 6. 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. This comprehensive energy bill should reduce our reliance on foreign sources of energy, protect the environment, increase conservation, improve energy efficiency, and expand the use of new technologies and renewable energy sources.

Electricity Reliability and Modernization

The Administration commends both the House and Senate for including electricity titles that would modernize and improve our electricity laws, achieving many of the Administration's policy objectives to improve reliability, protect consumers, increase supply, and promote efficient markets.

In particular, the Administration strongly supports the following provisions included in both versions of H.R. 6 that will substantially improve the reliability of the Nation's transmission grid. The Administration strongly supports provisions in both bills to (1) establish mandatory and enforceable reliability rules to reduce the risk of power outages; (2) expand investment in transmission and generation facilities by repealing the Public Utility Holding Company Act (PUHCA); and (3) advance the development and deployment of new technology necessary to fully modernize the transmission grid. Further, the Administration strongly supports two additional provisions in the House version of H.R. 6 providing for last-resort Federal siting authority for high-priority transmission



Printed on recycled paper

lines, and providing for the coordination and streamlining of transmission permitting activities across Federal lands. The Administration strongly supports and encourages the Conferees to consider options that would allow for increased rates-of-return on new transmission investments, including provisions in the House bill that require the Federal Energy Regulatory Commission to establish incentive-based rates to promote capital investment in new transmission and technological upgrades to existing transmission.

The Administration also supports a number of provisions in one or both bills that would help complete the transition to effective competitive wholesale power markets that generate and deliver reliable, abundant and affordable electricity. The Administration strongly supports efforts to ensure open access to the interstate transmission grid for all generators. The Administration wants to continue to work with the Conferees to ensure the bill includes language to allow the Tennessee Valley Authority to fully integrate into electricity markets. The Administration fully supports the goal of regional coordination and planning through the mechanism of voluntary regional transmission organizations that would provide certainty to the marketplace, prevent undue discrimination, and assist in eliminating transmission constraints. The Administration supports provisions in both versions of H.R. 6 that reform PURPA, enhance consumer protections, and increase civil and criminal penalties for violations of the Federal Power Act. The Administration also supports changes to Federal tax law that would (1) allow for the recognition of gain over eight years for the sale or disposition of transmission assets as part of restructuring; and (2) allow rural electric cooperatives to provide open access to their transmission systems without losing their tax-exempt status.

The Administration opposes the provision in the Senate-passed version of H.R. 6 that would set a national renewable portfolio standard (RPS) on power generation and believes those standards are best left to the states. A national RPS could raise consumer costs, especially in areas where these resources are less abundant and harder to cultivate or distribute. We urge the Conferees to support the President's proposal to extend and expand the production tax credit as a more efficient means to expand renewable energy.

Renewable Fuels Standard

The Administration supports the renewable fuels provisions and, in particular, supports the renewable fuels program adopted as part of an amendment to S. 14, and urges the conferees to adopt it at Conference. This provision will increase the use of clean, domestically produced renewable fuels, like ethanol and biodiesel, which will improve the Nation's energy security, farm economy, and

environment. The provision 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 the renewable fuels program economically achievable.

Hydrogen

The Administration is pleased that both the House and Senate versions of H.R. 6 authorize funding for the President's Hydrogen Fuel Initiative and FreedomCAR programs. We look forward to working with the Conferees to refine these provisions further, including clarifying the appropriate roles and authorities for various Federal and State agencies, as well as the private sector in these important initiatives.

However, the Administration opposes specific provisions in each bill that set unrealistic targets and timetables for hydrogen vehicle sales or use of hydrogen fuel, as well as the fuel cell purchase requirements contained in the Senate bill. These requirements will likely be prohibitively expensive and impossible to achieve given the technical feasibility of improvements in hydrogen and fuel cell technology over the next decade. The Administration also opposes, given the under-developed state of present fuel cell technologies, the various hydrogen demonstration programs contained in both the House and Senate versions of the bill.

Energy on Federal Lands

The Administration supports the provisions consistent with the National Energy Policy that are contained within the House and Senate bills to increase production of alternative and traditional energy resources on the Outer Continental Shelf, Federal onshore lands, and Tribal lands. In particular, the Administration encourages Conferees to maintain provisions in the legislation that will work to address shortages in the natural gas market and help maintain low prices and adequate supplies for consumers.

The Administration supports measures which will expedite permitting for new natural gas supply, expedite the handling of appeals on siting interstate pipelines, and provide appropriate incentives for the production of oil and gas in a manner consistent with the National Energy Policy.

Production from Arctic National Wildlife Refuge and Other Federal Lands

The Administration strongly urges the Conferees to adopt a provision like the one contained in the House-passed version of H.R. 6 to open a small portion of the

Arctic National Wildlife Refuge (ANWR) to environmentally responsible oil and gas exploration and development. We applaud the House for providing for the exploration and development of 2,000 acres in the 19 million acre ANWR using the newest available technology and toughest environmental standards ever imposed on this kind of project. The Administration believes Congress should look at the facts, not the rhetoric, concerning the Nation's best onshore prospect for oil, a small part of the coastal plain of ANWR. The House bill requires all activities to halt if they produce any significant adverse effect on the fish, the wildlife, or the environment of ANWR. The U.S. Geological Survey estimates ANWR likely contains over 10 billion barrels of oil. Opening the ANWR is not only key to increasing domestic production and reducing dependence on foreign oil, but also to creating thousands of new well-paying jobs for American workers.

Nuclear Energy

The Administration supports the expansion of nuclear energy in the United States as a major component of our national energy policy. Nuclear energy emits virtually no air pollutants or greenhouse gases, and advanced nuclear technologies offer the potential of efficient, safe, and proliferation-resistant reactor designs. The Administration supports provisions contained in the Committee-reported Senate bill authorizing nuclear energy research and development. We look forward to working with the Conferees to establish authorization levels consistent with the Administration's budget proposals.

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

Fuel Economy

The Administration supports improving fuel economy while protecting passenger safety and jobs. In general, the Corporate Average Fuel Economy (CAFE) provisions in both House and Senate bills are consistent with the Administration's view that the National Highway Traffic Safety Administration (NHTSA) should set fuel economy standards taking into account the findings and recommendations of the congressionally-mandated National Academy of Sciences (NAS) CAFE report. However, the Administration opposes provisions contained in both the Senate amendment to H.R. 6 and the Bond-Levin amendment to S.14 adopted by the Senate that would require a multi-year NHTSA rulemaking for both passenger cars and light trucks without also providing statutory authority for NHTSA to consider the full range of CAFE reform options, including the recommendations of the NAS. Such reforms will enhance NHTSA's ability to improve automobile fuel economy while protecting passenger safety and jobs.

The Administration also 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.

Alaska Natural Gas Pipeline

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 great importance of Alaska natural gas to our long-term energy security and supports the House and Senate provisions streamlining the permit process for this pipeline. The Administration strongly opposes the price-floor tax credit provision in the Senate bill and any similar provision because it would distort markets, could undermine fiscal responsibility, and would likely undermine Canada's support for construction of the pipeline and thus set back broader bilateral energy integration. However, in lieu of the price-floor tax credit, the Administration would be willing to support an appropriately structured 80 percent loan guarantee, accelerated depreciation, and an enhanced oil recovery tax credit to support the construction of a pipeline to the nearest economical access point to markets in the continental United States that would maximize consumer benefit, and minimize risk to taxpayers.

Climate Change

The President has committed the United States to an ambitious national goal to reduce the greenhouse gas intensity of the American economy by 18 percent over ten years. Specifically, the President has directed a broad range of domestic and international actions, including new initiatives for scientific research, advanced energy and sequestration technologies, and voluntary reporting and mitigation of greenhouse gas emissions. In the past year alone, the Administration has advanced major initiatives to accelerate research on hydrogen and fusion energy technologies and coal-fired, zero-emissions electricity generation; developed a ten-year strategic plan on Federal scientific research priorities on global climate change; reached agreements with twelve major industrial sectors and the membership of the Business Roundtable to reduce emissions in the next decade; and proposed spending over \$4.3 billion in FY 2004 on global climate change programs which, if enacted by Congress, would be the highest level ever. The Administration is engaged in extensive international efforts, including new bilateral agreements with countries representing over 70 percent of global greenhouse gas emissions (Australia, Japan, China, India, Italy, Canada, Russia,

the Republic of Korea, New Zealand, Mexico, the European Union and CONCAUSA, an organization of seven Central American countries).

The President's climate change strategy provides for a continuing cabinet-level policy process to oversee and direct this comprehensive program. Many other provisions contained in the House and Senate energy bills will themselves reduce the projected growth in greenhouse gas emissions, and we urge the conferees to allow these and the President's climate change strategy to go forward unimpeded. The Administration opposes any climate change provisions, such as those proposed in Titles 10, 11, and 13 of the Senate-passed bill that are inconsistent with the President's climate change strategy.

Tax Provisions

The President's FY 2004 budget included tax incentives totaling \$8 billion over 10 years. These were dedicated to alternative and renewable fuels, conservation, energy efficiency and emissions-free energy. The Administration is concerned that the House and Senate bills contain tax provisions whose total revenue loss significantly exceeds the Administration's policy. Maintaining fiscal discipline remains crucial to returning the budget to balance. 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 \$8 billion total revenue loss.

Excessive and New Authorizations for Appropriations and Loan Guarantees

Both the House and Senate versions of H.R. 6, as well as the Senate committee-reported bill, as amended, contain numerous unnecessary, duplicative and costly research and development authorizations for appropriations that far exceed any contemplated levels of spending in future years. These authorizations will create unrealistic expectations of future funding that are extremely unlikely given competing fiscal priorities, including deficit reduction. The Administration urges the Conferees to limit authorizations for appropriations to levels consistent with the President's Budget. The Administration also opposes the specific (but unrealistic) goals and timetables for energy technology R&D contained in the House and Senate bills.

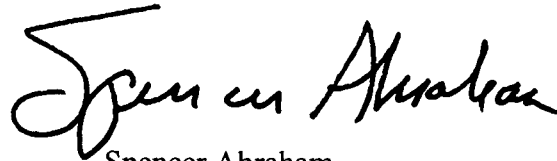
The Administration is also concerned about the excessive number of and total authorizations for loan programs in both the House and Senate bills as inconsistent with Administration policy for risk-sharing, loan terms, and program administration.

Conclusion

The Administration applauds the House and 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 to meet the President's objectives as set forth in the National Energy Policy.

If you have any questions or concerns regarding this matter, please contact me or Ms. Shannon D. Henderson, Acting Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

A handwritten signature in black ink that reads "Spencer Abraham". The signature is written in a cursive, flowing style.

Spencer Abraham

cc: All House and Senate Members
of the Conference