

135355

United States General Accounting Office

GAO

Report to the Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives

February 1988

# ENERGY MANAGEMENT

## Actions to Improve Timeliness of FERC Responses to Investigative Reports



135355

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**Resources, Community, and  
Economic Development Division**

B-230021

February 19, 1988

The Honorable John D. Dingell  
Chairman, Subcommittee on Oversight  
and Investigations  
Committee on Energy and Commerce  
House of Representatives

Dear Mr. Chairman:

As you requested, we have examined actions by the Department of Energy's (DOE) Office of Inspector General (OIG) to investigate allegations of improprieties involving high-level employees at the Federal Energy Regulatory Commission (FERC). We have also examined the responses prepared by FERC to the OIG reports.

In summary, we found that OIG investigated each of the allegations raised and issued eight reports based on its investigation, seven of which were sent to FERC's Chairman. While each of the reports called for FERC to respond concerning action taken within 30 days, FERC's responses to five of the seven reports each took over 150 days. FERC has developed internal directives which establish time frames for responding to and resolving recommendations relating to OIG audit reports. However, the directives do not cover responses to OIG investigative reports. We are recommending that the directives be modified to establish time frames for responding to OIG investigative reports and for resolving recommendations relating to them.

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**Background,  
Objectives, Scope, and  
Methodology**

Following publication of an article in the September 29, 1986, edition of the "Legal Times" which discussed allegations of a wide range of improprieties involving high-level FERC officials, you requested that GAO initiate an investigation into the alleged improprieties. The alleged improprieties included allegations of improper recruitment and travel by a former FERC General Counsel; charges of questionable contracting practices and conflicts-of-interest involving a former FERC Executive Director and two other officials; and charges of abusive management practices by another high-level FERC employee. Because OIG had already initiated its own investigation into the allegations, we agreed with your office that in lieu of carrying out our own investigation, we would monitor OIG's efforts and discuss its reports with you after they were completed. After reviewing the reports, we agreed to prepare a report to you focusing on the timeliness of FERC's responses to the OIG reports.

Our work on this assignment has consisted primarily of (1) reviewing the investigative reports OIG prepared to determine if they covered each of the allegations raised, (2) discussing report findings with the Director of OIG's Eastern Regional Investigations Office, and (3) reviewing FERC actions to respond to the reports through examination of relevant FERC directives and interviews with responsible FERC officials. We did not conduct an independent investigation into the alleged improprieties nor did we verify the information collected by OIG during its investigation. As agreed with your office, we also did not attempt to assess the adequacy of FERC responses to the OIG reports. Our work was performed during the period May 1987 through December 1987 and was carried out in accordance with generally accepted government auditing standards.

## OIG's Investigation of the Allegations

OIG has investigated each of the allegations discussed in the "Legal Times" article and other related allegations. During the period from February 1987 to July 1987, OIG issued eight reports covering 34 allegations. Seven of the reports were transmitted to FERC's Chairman for her consideration and/or action.<sup>1</sup>

Each of the seven reports addressed allegations of improprieties involving FERC employees. The OIG developed recommendations to address problems discussed in four of the seven reports. These recommendations called for FERC to take actions relating to specific FERC employees and for FERC to make improvements in its operations, policies, and procedures. OIG did not make specific recommendations in the other three reports, each of which discussed apparent improper activities by FERC employees. However, FERC's Chairman was requested to consider the reports. In each case, FERC's Chairman was requested to respond in writing concerning action taken on the report within 30 days.

## Improvement Needed in the Timeliness of FERC Responses

FERC responses to OIG reports are governed by two FERC administrative directives. FERC Administrative Directive 9-4, "Responding to Department of Energy Inspector General Reports," which sets forth time frames for FERC responses to OIG audit reports, calls for official responses to final OIG reports to be prepared and approved within 75 days from the date of transmittal. FERC Administrative Directive 9-1A, "Audit Followup," assigns responsibilities for audit followup. It specifically notes that timely and proper action on accepted recommendations

<sup>1</sup>OIG did not request FERC consideration of the eighth report, which involved two allegations, since no violation of federal statutes, rules, or regulations was established.

is an integral part of FERC's internal control system and is the key to its effectiveness. Among other things, the directive calls for findings and recommendations in audit reports to be resolved within 3 months for operational audits and 6 months for contract audits. FERC Administrative Directive 9-4 assigns principal responsibility to FERC's Executive Director for audit resolution and tracking functions. Directive 9-1A gives FERC's Internal Auditor responsibility for evaluating FERC's followup system and assessing whether it results in efficient, prompt, and proper resolution and corrective action on recommendations.

FERC's Internal Auditor told us that because the OIG reports relating to the alleged improprieties were investigative reports rather than audit reports they were not covered by the administrative directives. He said that the Executive Director's Office was not made aware of nor did it receive copies of the reports, as is the case with audit reports, and had not been actively involved in ensuring responses were prepared in a timely manner. Instead, FERC's Chairman decided to make the Office of General Counsel responsible for preparing responses to the reports. None of the FERC responses to the seven OIG investigative reports were prepared within the 30 days requested by OIG and only two of the seven were prepared within the 75-day response period which applies to OIG audit reports. The FERC responses were dated 52, 73, 155, 189, 259, 301, and 322 days after the reports were transmitted to FERC.

## Reasons for the Delay in Responding

The official in FERC's Office of General Counsel who was involved in preparing responses to the reports said that FERC had discussed the reports informally with OIG and had begun taking action on them before formal responses were prepared. He also cited a number of reasons as to why FERC had not responded sooner to the reports for which responses took over 75 days. These included the following:

- Because two reports involved serious charges against FERC employees, FERC believed it needed to conduct its own investigation of the charges before deciding whether to take adverse actions against the employees. In one case, this involved recomputing OIG's estimate of the value of time used by an employee to conduct personal business. FERC responded to these OIG reports 189 and 259 days after they were transmitted to FERC.
- FERC held off in responding to one report because it mistakenly believed that OIG was still investigating three related allegations. In fact, OIG had completed its investigations and reported on the related allegations by July 27, 1987. FERC did not realize that the OIG's investigation had been completed until November 1987, when we inquired about the reasons

for its delay in responding. The Office of General Counsel official said FERC also held off in responding to the report while the Department of Justice was considering action on it. Justice declined prosecution of the matter on July 31, 1987. FERC responded to the OIG report on January 21, 1988.

- Responses to two reports were held up while FERC was awaiting receipt of or considering action on two related reports. One of the reports was also delayed because a recommendation in it was based on an expired DOE order which required FERC officials to report knowledge of possible wrongdoing to OIG. The Office of General Counsel official said FERC believed it was unclear whether the new version of the order still applied to FERC and, thus, whether the recommendation was valid. FERC responded to these reports 155 and 301 days after they were transmitted to FERC.

In addition, the General Counsel Office official and FERC's Internal Auditor noted a distinction between the way in which FERC responds to audit reports and investigative reports. When responding to audit reports, they said FERC may state that it is planning to take action on a report whereas responses to investigative reports are prepared after action is taken.

## OIG Followup

The OIG Director of the Eastern Regional Investigations Office, which prepared the eight reports, told us that after sending the reports to FERC's Chairman, the office had followed up with FERC's Office of General Counsel approximately every 30 days by telephone. He said that OIG normally receives responses from other recipients of investigative reports in a timely manner and is generally advised when responses will be delayed. However, he said that FERC has been less responsive than other report recipients in this regard. On the other hand, the Assistant Manager of OIG's Capital Regional Audit Office said that FERC has been very responsive in providing timely responses to OIG audit reports, which have been handled by FERC's Executive Director's Office.

In December 1987, the Eastern Regional Investigations Office Director also told us that the office had recently decided to initiate new followup procedures to help ensure that recommendations in OIG investigative reports are responded to and resolved in a timely fashion. These involve preparing written followup letters, in addition to following up by telephone, to ensure that reports are responded to and recommendations resolved.

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## Conclusions

DOE's OIG has investigated each of the allegations of improprieties by FERC employees and has made recommendations to address problems which it identified. However, we believe FERC could have responded to the reports in a more timely manner. We recognize that the reports dealt with sensitive issues and, in some cases, FERC needed to take certain actions before responses could be prepared. However, as cited by OIG, FERC has been less responsive than other report recipients. None of the responses were prepared within the 30 days requested by OIG. FERC responses to three of the reports took over 250 days and two others over 150 days.

The recent changes initiated by OIG in its followup procedures on investigative reports should help promote timely resolution of recommendations. However, improvements in FERC procedures are also needed to ensure that OIG investigative reports are responded to and resolved in a timely manner. FERC has established administrative directives which contain time frames for preparing responses to OIG audit reports and give FERC's Executive Director authority over audit resolution and tracking functions. However, FERC lacks similar directives which cover its responses to OIG investigative reports and assign responsibility for them.

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## Recommendation

We recommend that the Chairman, Federal Energy Regulatory Commission, ensure that recommendations in OIG investigative reports are responded to and resolved in a timely manner by amending FERC Administrative Directives 9-1A and 9-4 to (1) include time frames for responding to and resolving recommendations contained in OIG investigative reports and (2) assign responsibility to a high-level FERC official for ensuring that responses are properly prepared and recommendations resolved within these time frames.

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We have discussed the factual information in this report with OIG and FERC officials and have included their comments where appropriate. However, as you requested, we did not obtain official agency comments on a draft of this report. In addition, as agreed with your office, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Secretary of Energy; the Chairman, FERC; and other interested parties.

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This work was performed under the direction of Flora H. Milans, Associate Director. Major contributors are listed in appendix I.

Sincerely yours,

A handwritten signature in cursive script that reads "J. Dexter Peach". The signature is written in black ink and is positioned above the printed name and title.

J. Dexter Peach  
Assistant Comptroller General



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