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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

Subject Card

E-191533

MAY 15 1978

OFFICE OF GENERAL COUNSEL

Mr. Edwin Ruhn
Director, Government and
Environmental Affairs
Northwest Alaskan Pipeline Company
Washington, D.C. 20006

Dear Mr. Ruhn:

Your letter dated April 17, 1978, requested amplification of the permissible scope and interpretation of GAO's verification examination process under Title V of the Energy Policy and Conservation Act (EPCA). Also, you inquired whether GAO may rely on statutory authority in addition to sections 501* and 502* of EPCA for our planned review of the Alaska Highway Gas Pipeline project.

Title V of the Energy Policy and Conservation Act, 42 U.S.C. 6381 et seq. (Supp. V 1975), provides that the Comptroller General may examine documents of certain energy companies to assess the accuracy, reliability, and adequacy of energy information or financial information. //

Among those persons whose records are subject to verification examinations are (1) any person required to submit energy information to the Federal Energy Regulatory Commission, Department of the Interior, or Department of Energy "pursuant to any rule, regulation, order, or other legal process" of those agencies and (2) any person engaged in the processing, transportation by pipeline, or distribution (at other than the retail level) of energy resources--

"(A) if such person has furnished * * * energy information (without regard to whether such information was furnished pursuant to legal requirements) to any Federal agency (other than the Internal Revenue Service), and

"(B) if the Comptroller General of the United States determines that such information has been or is being used or taken

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into consideration, in whole or in part, by a Federal agency in carrying out responsibilities committed to such agency * * *." 42 U.S.C. 6381⁺(Supp. V 1975).

The Comptroller General may issue subpoenas or general or special orders to enforce this right to access to energy information. He may also require testimony or answers to interrogatories. Moreover, upon proper notice, the Comptroller General or his representative may--

"(A) enter, at reasonable times, any business premise or facility; and

"(B) inspect, at reasonable times and in a reasonable manner, any such premise or facility, * * * and examine and copy books, records, papers, or other documents, relating to any energy information * * *." 42 U.S.C. 6382[✓](Supp. V 1975).

In addition to the Title V⁺ authority, the Congress has granted GAO broad statutory authority for energy audits, over and above our generic program audit authority in 31 U.S.C. 1154[✓](Supp. V 1975) and other statutes dealing generally with our functions. The far reaching audit authority in the Federal Energy Administration Act, 15 U.S.C. 771[✓](Supp. V 1975), is now applicable to the entire Department of Energy (DOE) by virtue of the Department of Energy Organization Act, Pub. L. No. 95-91, §207, 91 Stat. 565~~574~~ (1977). Under this provision, GAO is charged with "monitoring and evaluation of all functions and activities of the Department" of Energy, including, of course, the Federal Energy Regulatory Commission (FERC).

In carrying out his responsibilities in such energy audits, the Comptroller General or his authorized representatives--

"may request access to any books, documents, papers, statistics, data, records, and information of any person owning or operating facilities

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or business premises who is engaged in any phase of energy supply or major energy consumption * * *."

The Comptroller General may, with congressional concurrence, issue subpoenas to enforce this access authority.

In sum, our statutory authority gives us the right to examine Northwest's books, records, papers, or other documents as necessary for our audit work monitoring DOE and FERC operations and for our verification examinations of information submitted to the Government.

In view of the past debate on financing for the gas pipeline and the possibility of near-term decisions regarding Federal assistance in financing or guaranteeing the project, it is essential that GAO be able to provide the Congress with timely evaluations of the advantages and disadvantages of financing options. As you know, the ability to obtain private financing will be determined by several factors. Such factors include (1) the equity and creditability of the project sponsors; (2) the roles of the project's beneficiaries; (3) the outlook from the capital financing market; and (4) the risks associated with construction delays and overruns.

Our overall work relates to issues involved in financing this project to enable us to obtain a broad understanding of the above factors, including the available factual support. In this case, the objective of our verification work will be to assure the accuracy and reliability of information submitted to FERC and other agencies which use such information in reaching their project decisions.

It has been our experience in dealing with over 100 companies that the most effective way to conduct Title V examinations is to combine our requests for documentary evidence with informal discussions with knowledgeable company officials. We found that such open discussions lead to a better understanding by both parties as to what data is needed and available, and assures that only necessary data are obtained. This avoids wasted efforts due to misunderstandings or misinterpretations of written statements or questions. However, once specific data have been identified, we will be glad to request such data in writing, if you desire.

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The information we seek includes, but is not limited to, all documents containing the most current information relating to, revising, or updating the following:

- (1) Submissions and testimony regarding the data presented in Exhibit L, Financing, and Exhibit Z-2 of Docket No. CP-75-96, et al., submitted to the Federal Power Commission.
- (2) Submissions and testimony regarding the documents "Alcan Pipeline Project 48 Inch Alternative Proposal" dated March 1977 submitted under Docket No. RM-77-6 to the Federal Power Commission.
- (3) Information shown in Chapter II, Financial Analysis, and Chapter IV, Economic Considerations, of "Decision and Report to Congress on the Alaska Natural Gas Transportation System" dated September 1977.
- (4) Submissions and testimony presented before the Federal Energy Regulatory Commission regarding the delivery of natural gas from sources in Alberta, Canada, which will require pre-building certain portions of the eastern leg of the Alaska Highway Pipeline.
- (5) Submissions and presentations before the Executive Policy Board relating to the overall proposal, segments thereof, or predelivery proposals.
- (6) Studies conducted internally or contracted out regarding the Alaska Highway Pipeline Project.
- (7) Information which would provide an overview of the overall project's status as well as the status of segments of the project.

We recognize that some of the data requested may be proprietary in nature. We want to assure you that it is GAO's policy to respect business privacy and to protect the competitive positions of individual companies as much as possible,

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consistent with our reporting responsibilities to the Congress. Therefore, in addition to the very strict internal prohibitions against disclosure to anyone outside GAO, efforts are made to exclude proprietary data from reports to the Congress. In the event such data must be transmitted to the Congress, such as when it is needed to be responsive to a congressional request, the proprietary information is not intermingled with other matters being reported. It is transmitted over the Comptroller General's signature. The attachments transmittal letter will alert the recipient as to the sensitivity of the data.

If release of proprietary data, whether in summary form or not, is made to a congressional committee, GAO will send a notice of the proposed release at least 10 days prior to release in order to provide the owner of the information an opportunity to comment on the proposed disclosure. The notice will adequately identify the information that is the subject of the proposed release and will inform the owner of his opportunity to comment on the proposed disclosure through submission of written data, views, or arguments prior to the disclosure determination.

We appreciate this opportunity to explain our planned work and the authority under which we are operating, and, of course, we are pleased that Northwest is prepared to comply fully with all statutory requirements. We trust that arrangements can be made promptly to provide us the information we seek.

Sincerely yours,

Paul G. Dembling

Paul G. Dembling
General Counsel