

DAN BURTON, INDIANA,
CHAIRMAN

BENJAMIN A. GILMAN, NEW YORK
CONSTANCE A. MORELLA, MARYLAND
CHRISTOPHER SHAYS, CONNECTICUT
ILEANA ROS-LEHTINEN, FLORIDA
JOHN M. McHUGH, NEW YORK
STEPHEN HORN, CALIFORNIA
JOHN L. MICA, FLORIDA
THOMAS M. DAVIS, VIRGINIA
MARK E. SOUDER, INDIANA
STEVEN C. LATOURETTE, OHIO
BOB BARR, GEORGIA
DAN MILLER, FLORIDA
DOUG OSE, CALIFORNIA
RON LEWIS, KENTUCKY
JO ANN DAVIS, VIRGINIA
TODD RUSSELL PLATTS, PENNSYLVANIA
DAVE WELDON, FLORIDA
CHRIS CANNON, UTAH
ADAM H. PUTNAM, FLORIDA
C.L. "BUTCH" OTTER, IDAHO
EDWARD L. SCHROCK, VIRGINIA
JOHN J. DUNCAN, JR., TENNESSEE

ONE HUNDRED SEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
FACSIMILE (202) 225-3974
MINORITY (202) 225-5051
TTY (202) 225-6852

www.house.gov/reform

February 11, 2002

HENRY A. WAXMAN, CALIFORNIA,
RANKING MINORITY MEMBER

TOM LANTOS, CALIFORNIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
PATSY T. MINK, HAWAII
CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
ROD R. BLAGOJEVICH, ILLINOIS
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLEN, MAINE
JANICE D. SCHAKOWSKY, ILLINOIS
WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA
STEPHEN F. LYNCH, MASSACHUSETTS

BERNARD SANDERS, VERMONT,
INDEPENDENT

The Honorable Dan Burton
Chairman
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Burton:

I am writing regarding the collapse of the Enron Corporation.

Since Congress adjourned on December 20, a number of House and Senate committees have launched investigations into this growing scandal. As of today, ten House and Senate committees are involved in this issue. They include the House Education and Workforce Committee, the House Energy and Commerce Committee, the House Financial Services Committee, the Senate Banking, Housing, and Urban Affairs Committee, the Senate Commerce, Science, and Transportation Committee, the Senate Energy and Natural Resources Committee, the Senate Finance Committee, the Senate Governmental Affairs Committee, the Senate Health, Education, Labor and Pensions Committee, and the Senate Judiciary Committee.

It makes little sense for our Committee to duplicate these efforts. There are issues, however, that our Committee is uniquely qualified to examine and are consistent with the Committee's focus in recent years. These issues relate to Enron's political activities and influence. I ask that you consider examining these issues.

Background

As the Enron scandal grows, the Bush Administration has expressed concern over unnecessarily broad investigations. While I have a different view than the White House on what requests are relevant, I do think that any inquiry our Committee should undertake should be as targeted as possible. I have no interest in requesting the issuance of 1,048 subpoenas, such as the Committee issued to investigate the Clinton Administration. There would be no justification for such a request and it would serve no constructive end.

I do believe, however, that a properly constructed inquiry can be very important in understanding how Enron tried to influence government policies and how it came to be one of

the most powerful companies in our nation's capital. Enron was not only the biggest contributor to President Bush, it gave over \$5.9 million to both Republicans and Democrats over the last decade. Moreover, we know Enron succeeded -- in both the Bush and Clinton Administrations -- in having policies they sought endorsed.

Over the last year, for example, Enron benefitted from the following actions of the Administration:

- **White House Energy Plan**. There are at least 17 policies in the White House energy plan that were advocated by Enron or that benefitted Enron. These include deregulation initiatives long promoted by Enron, support for trading in energy derivatives, and proposals to facilitate natural gas projects.¹
- **Opposition to Price Caps**. On April 17, 2001, Enron CEO Ken Lay met with Vice President Cheney and discussed Enron's opposition to electricity price caps in California.² The next day, the Vice President told the *Los Angeles Times* in a telephone call that he was strongly opposed to price caps.³
- **Dabhol Power Plant**. The White House led an effort to help Enron settle a dispute with the government of India over the sale of a \$2.9 billion natural gas-fueled power plant in Dabhol, India. On June 27, 2001, Vice President Cheney personally inquired about the status of the power plant in a meeting with Sonia Gandhi, head of India's Congress Party. Enron is the majority owner of the Dabhol power plant.⁴
- **Corporate Alternative Minimum Tax**. Enron was a leader of the lobbying campaign to repeal the corporate alternative minimum tax.⁵ In early October 2001, Mr. Lay personally

¹*How the White House Energy Plan Benefitted Enron*, Minority Staff, Committee on Government Reform (Jan. 16, 2002).

²Letter from David S. Addington, Counsel to the Vice President, to Rep. Henry Waxman (Jan. 3, 2002).

³*California and the West Price Caps Don't Fit in Cheney's Head for Figures*, Los Angeles Times (Apr. 19, 2001).

⁴*White House Aided Enron in Dispute, Cheney, Other Officials Tried to Resolve Dispute Over Power Plant in India*, Washington Post (Jan. 20, 2002); *Cheney's Role Draws Scrutiny: Vice President's Actions to Help the Energy Giant in a Power Plant Dispute in India Are Backed by White House*, Los Angeles Times (Jan. 19, 2002).

⁵*Enron, Which Lobbied for Corporate Tax Repeal, Faces Congress Probe over Its Own Tax Returns*, Associated Press (Jan. 15, 2002).

telephoned OMB Director Mitch Daniels to inquire about legislation repealing the AMT.⁶ The Administration later endorsed the House-passed stimulus bill which repealed the AMT, giving Enron a \$254 million windfall.⁷

- **FERC Appointments.** After President Bush took office, Mr. Lay met with Clay Johnson, the White House director of personnel, to discuss nominees to the Federal Energy Regulatory Commission. President Bush later filled two vacant Republican slots on the Commission with appointees that had the backing of Enron.⁸
- **Offshore Tax Havens.** In the spring of 2001, the Bush Administration informed the Organization for Economic Cooperation and Development that it would not support the agreement negotiated by the Clinton Administration to increase disclosure of offshore financial transactions. According to a Public Citizen report, this action helped Enron continue to shield transactions and avoid tax liability through more than 800 offshore subsidiaries.⁹

Similarly, Enron benefitted from the following actions during the prior Administration:

- **Utilities Deregulation.** In April 1996, FERC issued two orders that helped power marketers such as Enron compete in the electricity market. Order 888, the Open Access Rule, required transmission line owners to offer access to their transmission services to outside entities like Enron under terms and conditions comparable to those under which the owners obtain access for themselves.¹⁰ Order 889, the Open Access Same-Time Information System (OASIS) rule, established standards of conduct for utilities to ensure a level playing field.¹¹

⁶See, e.g., *Enron's Washington Clout Before Collapse Draws Scrutiny*, Wall Street Journal (Jan. 15, 2002).

⁷Citizens for Tax Justice, *House GOP "Stimulus" Bill Offers 16 Large, Low-Tax Corporations \$7.4 Billion in Instant Tax Rebates* (Oct. 16, 2001, updated Oct. 26, 2001).

⁸*Collapse May Reshape the Battlefield of Deregulation*, New York Times (Dec. 4, 2001).

⁹See Public Citizen, Critical Mass Energy & Environment Program, *Blind Faith: How Deregulation and Enron's Influence Over Government Looted Billions from Americans* (Dec. 2000).

¹⁰Congressional Research Service, *Electricity: The Road Toward Restructuring* (updated Jan. 17, 2002) (CRS Issue Brief for Congress).

¹¹*Id.*

- **Global Warming.** On August 4, 1997, Ken Lay and other top energy executives met with President Clinton, Vice President Gore, Treasury Secretary Rubin, and other senior officials to discuss the U.S. position at the upcoming conference on global warming in Kyoto, Japan. Enron favored entering into an international agreement that would establish an emissions trading system. The United States supported this concept in the Kyoto negotiations and signed the Kyoto Protocol.¹² Enron officials were reportedly elated with the final results of the treaty. An internal Enron memo said that, if implemented, the Kyoto agreement would “do more to promote Enron’s business than almost any other regulatory initiative outside of restructuring the energy and natural gas industries in Europe and the United States.”¹³

Enron’s special access and ability to influence policy is not limited to Executive Branch officials. Enron also benefitted from actions taken by Congress.

- **Accounting Rules.** In June 2000, then-Securities and Exchange Commission (SEC) Chairman Arthur Levitt tried to enact a rule that would have prevented accounting firms from providing certain consulting services to firms whose books they audit. The accounting industry strongly opposed these efforts, and lawmakers in Congress threatened to cut the SEC’s appropriations if the rule was not watered down.¹⁴ In November 2000, the SEC adopted a weaker version of the proposed rule supported by the accounting lobby. Mr. Levitt said the final product “reflects, to a great extent, their concerns.”¹⁵
- **Deregulation of Energy Derivatives and Swaps.** In December 2000, Congress passed the Commodity Futures Modernization Act as part of an omnibus spending bill. The bill expanded and codified a previous Commodity Futures Trading Commission (CFTC) decision -- spearheaded by former CFTC Chairwoman Wendy Gramm -- that exempted energy derivative contracts from agency oversight. According to the *Wall Street Journal*,

¹²*See If You Understand UNFCCC-COP3, Then JUSSCANN2 Is a Snap*, Washington Post (Dec. 5, 1997).

¹³*Id.*

¹⁴*Doing a Number on Reforms*, Washington Post (Jan. 24, 2002).

¹⁵Statement of SEC Chairman Arthur Levitt, SEC Open Meeting on Market Structure Initiatives in the Options and Equities Markets, and Rules Governing Auditor Independence (Nov. 15, 2000) (on line at: www.sec.gov/news/extra/levonai.htm).

this “provision was sometimes referred to by Capitol Hill staff as the ‘Enron point.’”¹⁶
The bill also exempted from CFTC oversight significant Enron trading activities, such as electronic energy trading and swaps.

Given the extraordinary success Enron had in influencing policy, it seems appropriate to learn as much as we can how the company operated and whether any wrongdoing occurred.

Information Requests

Enclosed with this letter are letters that I have sent to Secretary of the Treasury Paul O'Neill, Secretary of Commerce Donald Evans, Secretary of Energy Spencer Abraham, Economic Policy Assistant Lawrence Lindsey, White House Chief of Staff Andrew Card, Office of Management and Budget Director Mitchell Daniels, and Assistant to the President for Presidential Personnel Clay Johnson. The responses that I have received to date from these officials, which are also enclosed, are polite replies that provide no information.

I believe the questions I have raised in these letters are reasonable, targeted, relevant, and present no onerous burden to the White House. Accordingly, I ask that you consider issuing Committee requests for this information.

I am also enclosing correspondence I had with Alberto Gonzales, Counsel to the President, regarding contacts between White House senior advisor Karl Rove and Mr. Lay about energy policy at the same time that Mr. Rove owned over \$60,000 of Enron stock. As you can see, Mr. Gonzales refused to provide any information regarding Mr. Rove's interaction with Enron and other companies. I think this also is an appropriate area of inquiry for our Committee, and I ask that you consider issuing Committee requests for this information. The need for independent Committee review of Mr. Rove's actions is underscored by a recent news report that Mr. Gonzales has extensive ties to Enron. According to an article in the *New York Daily News*, Enron and Enron's law firm Vinson & Elkins were Mr. Gonzales's biggest contributors in his 2000 judicial election, giving more than \$35,000.¹⁷

There is some information that would most efficiently be obtained directly from the Enron Corporation. This includes:

- All records related to contributions made by Enron Corporation or its political action

¹⁶*Out of Reach: The Enron Debacle Spotlights Huge Void in Financial Regulation*, Wall Street Journal (Dec. 13, 2001).

¹⁷*New Bush Tie to Enron: White House Lawyer Got 35G While in Texas*, New York Daily News (Feb. 10, 2002).

committee from 1996 through 2001 to candidates for federal, state, or local office, political parties, political committees, Florida recount committees, inaugural committees, or any entity organized under section 527 of the Internal Revenue Code. These records are important because Enron reportedly sought to use political contributions to pursue access and favors at the federal, state, and local level, and the full extent of its contributions is not yet known.¹⁸

- All records related to the use of Enron aircraft between 1996 and 2001 by any candidate, or by any person employed by or working on a contractual basis for any candidate, for federal, state, or local office. This information is important because Kenneth Lay and Enron reportedly offered the use of Enron's private jets to gain access to Governor George Bush and other members of the Bush campaign during his bid for the presidency.¹⁹
- All records related to contacts by Enron officers, employees, or outside representatives with the Executive Office of the President and all federal agencies between 1996 and 2001. This information is important because it will detail the extent of Enron's influence during both the Clinton and Bush Administrations.
- All records related to contacts by Enron officers, employees, or outside representatives with members of Congress or congressional staff between 1996 and 2001. This information is important because it will shed light on the extent of Enron's influence in the legislative process.
- All records related to any Enron policy or practice to provide supplemental compensation or otherwise encourage Enron executives to make contributions to any candidate for federal, state, or local office. The *Washington Post* reported that "[a]t Enron, it was understood that executives receiving astronomical salaries would turn part of the money back to the company's smooth political operation."²⁰ This information bears on the issue of whether Enron's political activities were legal or whether Enron violated federal campaign finance law prohibiting corporate contributions or conduit contributions.

¹⁸See, e.g., *Washington Wasn't the Only Place Enron Flexed its Political Muscle*, Money (Jan. 28, 2002); *How Enron Massaged the Political Process*, Fort Worth Star-Telegram (Jan. 27, 2002).

¹⁹E.g. *The New Power; They Get It; Enron Displays Political Savvy in Access to Decision-Makers*, Houston Chronicle (Apr. 15, 2001).

²⁰*Hard Money, Strong Arms and "Matrix": How Enron Dealt with Congress, Bureaucracy*, Washington Post (Feb. 10, 2002).

In recent days, there have been questions raised in the media about additional aspects of Enron's political activities. These involve questions about the legality and appropriateness of Enron's decision to hire specific lobbyists and political consultants. As a result, I also believe we should seek the following information from Enron:

- All records related to Enron's decision to enter into an employment or consulting relationship with Ralph Reed. According to associates of Karl Rove, Mr. Rove had reportedly recommended Mr. Reed for a lucrative consulting contract with Enron as Governor George Bush was considering a run for the presidency. Mr. Rove reportedly wanted to retain the support of Mr. Reed without adding him to the Bush campaign's payroll. Both Mr. Reed and Mr. Rove contend that the contract had nothing to do with the Bush campaign.²¹
- All records related to the appointment, service, and compensation of Lawrence Lindsey and Robert Zoellick on any Enron advisory board or council from 1999 to 2001, and all records, during the same period, related to any activities by Mr. Lindsey and Mr. Zoellick made on behalf of the Bush campaign. According to financial disclosure reports, Mr. Lindsey served on an Enron "Advisory Board" and Mr. Zoellick served on an Enron "Advisory Council," and each received \$50,000 in salary for 2000.
- All records related to Enron's employment or consulting relationship with Edward Gillespie between 2000 and 2001. Mr. Gillespie reportedly played a leading role in gaining Enron access to the Bush Administration on matters of energy and tax policy. One former Enron employee called Mr. Gillespie Enron's "hired gun" and said, "Whenever we had to get in to see a Republican, the first call was to Gillespie."²²

Committee Precedent

As you well know, I often disagreed with the breadth and specific approach to the Committee's campaign finance investigation, which commenced in 1997. During that investigation, our Committee spent at least \$7.8 million; issued over 940 subpoenas and over 530 formal requests for information; conducted over 150 depositions; and received approximately 1.3 million pages of documents from the Clinton Administration, including over 75,000 pages from the White House. The Committee has also issued over 100 subpoenas investigating other matters

²¹See, e.g., *A Suicide and a Resignation as the Formal Inquiries Get Under Way*, New York Times (Jan. 27, 2002); .

²²See *GAO Vows to Sue for Cheney Files; Hill Probes Enron Influence on Task Force*, Washington Post (Jan. 26, 2002).

related to the Clinton Administration.²³

We spent considerable time investigating allegations that campaign contributions influenced Clinton Administration policy and personnel decisions. Among those inquiries, subpoenas or document requests were issued regarding:

- Allegations that President Clinton created a national monument in Utah in exchange for money from Indonesia's Lippo Group;
- Allegations that President Clinton endorsed the candidacy of a foreign leader in exchange for campaign contributions;
- Allegations that campaign contributions influenced an Interior Department decision not to allow certain Indian tribes to develop an off-reservation casino in Hudson, Wisconsin;
- Allegations that the Clinton Administration changed major U.S. policies to benefit the Riady family, such as Most Favored Nation trading privileges and access to Vietnam;
- Allegations that Charlie Trie was appointed to the Bingaman Commission as a reward for his fundraising activities;
- Allegations that Vice President Gore influenced the Clinton Administration's sale of the Elk Hills petroleum reserve to Occidental Petroleum because of campaign contributions or because Vice President Gore had a financial interest in Occidental; and
- Allegations that President Clinton granted executive clemency to Marc Rich and others in exchange for campaign and presidential library contributions.

As part of those investigations, the Committee demanded and received from the White House phone records and passenger manifests from Air Force I and Air Force II, WAVES

²³These included investigations into various grants of executive clemency, the tragedy at Waco, the possible existence of a "barnyard epithet" written by the Vice President on an intelligence report, alleged selling of burial plots in Arlington National Cemetery, alleged misfeasance by a Foreign Service Officer in China, possible political interference in the processing of a Freedom of Information Act request, possible political interference in a Drug Enforcement Administration investigation, alleged prosecutorial misconduct by the Attorney General when she was serving as a state prosecutor in Florida, allegations of whistle blower retaliation in the Department of Defense, Department of Energy, and State, and other investigations.

records of visitors to the White House residence, and records identifying who attended White House movies, who sat in the Presidential box at the Kennedy Center, and who was allowed to eat lunch in the White House mess. In addition to documents, the Committee sought and received deposition testimony from senior Administration officials, including White House Chief of Staff Erskine Bowles, Secretary of Commerce Mickey Kantor, Assistant and Deputy Counsel to the President Bruce Lindsey, and Counselor to the President and Special Envoy to the Americas Mack McLarty.

The Committee also frequently subpoenaed sensitive financial and personal information from individuals and companies. For example, in the campaign finance investigation alone, the Committee issued 128 subpoenas to phone companies for telephone records and subscriber information. The Committee also subpoenaed extensive information about business entities. For example, in the campaign finance investigation, the Committee subpoenaed a bank for all records related to Charlie Trie and Daihatsu International Trading Corporation. The subpoena called for production of 67 different categories of records, from bank statements to unapproved credit cards.

I don't recount this history to renew any disagreements between us on whether these actions were appropriate. This summary does demonstrate, however, the kinds of requests that the Committee is entitled to make and has made.

Conclusion

Congress faces a daunting challenge with the Enron scandal. The nation's seventh largest company in 2001 is now the nation's biggest bankruptcy ever. A small number of senior executives took over \$1 billion from the company, leaving employees and shareholders with worthless stock.

One primary obligation is to learn how this happened, who did it, and do our best to make sure it never happens again. Appropriately, this is the focus of many of the other congressional inquiries.

It is also important to examine Enron's political influence. Many have spoken eloquently on the discouraging message that Enron sends about the political system. A company that seemingly operated through fraud managed to become one of the most influential voices in Washington and a significant presence for both parties. It was able to persuade the federal government to adopt policies that resulted in less oversight and contributed to Enron's demise. Some have even said that the Enron scandal can be the final catalyst for campaign finance reform.

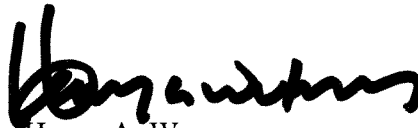
It is striking to me, though, how little we actually know about how Enron was able to

The Honorable Dan Burton
February 11, 2002
Page 10

obtain this extensive political influence. I think the information requests I have set out above would be invaluable in furthering our understanding. I realize, of course, that this is a formidable undertaking, but it's one I think our Committee has a duty to take on. I think we owe that to all the families that have been devastated by Enron's collapse.

I appreciate your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry A. Waxman". The signature is fluid and cursive, with a large initial "H" and "W".

Henry A. Waxman
Ranking Minority Member

Enclosures