U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

November, 14 2012

The Honorable Gene L. Dodaro
Comptroller General of the United States
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Comptroller General Dodaro:

On October 10, 2012, Reps. Fred Upton, Ed Whitfield, Tim Murphy and Mike Pompeo wrote to you to request a selected accounting of federal subsidies provided to energy technologies. This is not the first such request. In 2007 and again in 2010, Republican Members of Congress requested that the Energy Information Administration conduct similarly narrow studies based on a subsidy definition that ignores certain taxpayer support to the oil and gas and nuclear industries. Indeed, the October 10th request cites these previous controversial studies in claiming that even more skewed analysis on energy subsidies is needed. It is not the role of the GAO to conduct artificially constrained and skewed analysis to advance partisan goals. In order for the American people and policy makers in Congress to have a full understanding of the impacts of federal support for energy technologies and their impact, we believe that there must be a complete accounting of all preferential treatment, support and subsidies provided by the federal government over time. We therefore request that the Government Accountability Office (GAO) undertake a review of energy subsidies that takes into account all forms of federal support for various energy technologies since the first creation of tax subsidies for the oil and gas industry in 1916.

The definition of "subsidy" used in the request letter from Reps. Upton, Whitfield, Murphy and Pompeo appears to be narrowly tailored and therefore may not provide a full or complete assessment of the support for various forms of energy or energy technologies. For instance, the oil and gas industry enjoys tremendous tax benefits, which are permanent pieces of the tax code that may not be included under such a definition. Many of these preferential tax treatments are available exclusively to the oil and gas sector and some were put on the books nearly 100 years ago. Understanding the totality of these subsidies is imperative in evaluating federal support for energy industries like the oil and gas sector.

In addition, the oil and gas industry enjoys significant benefits in the extraction of oil and gas resources from our public lands. For instance, these industries are currently enjoying a loophole that allows them to produce oil and gas from public lands offshore in the Gulf of Mexico without paying any royalties to the American People. The Interior Department estimates that U.S. taxpayers stand to lose nearly $10 billion over the next 10 years as a result of this windfall and the GAO has previously estimated that taxpayers could lose as much as $53 billion over the life of these leases. Such an enormous benefit from U.S. taxpayer to a specific industry should certainly be included in any such accounting of federal support.

And the oil and gas sector enjoys numerous other forms of federal support to drill on public lands. Congress has enacted additional royalty-relief provisions that continue to benefit oil and gas companies operating on public lands offshore. Additionally, while the Congress temporarily expanded the Interior Department's authority to charge inspection fees to oil and gas operators offshore to fund the Interior Department and ensure that drilling rigs are properly inspected, it is not a permanent change. These types of federal support for energy technologies must also be factored into any full accounting of energy subsidies.

Of course, the externalities associated with fossil fuel combustion are the most significant subsidy in the energy sector. Rather than internalizing the very real costs associated with their carbon emissions, the fossil fuel industry in most cases is able to push these costs onto the general public in the form of reduced human health and welfare. While climate change externalities present an analytic challenge because of their difficulty to monetize, there is no question that exemptions from appropriate environmental controls do penalize cleaner energy types and these exemptions should properly be viewed as subsidies.

The U.S. taxpayer also provides enormous subsidies to the nuclear industry through tax credits, regulatory risk insurance, and—most of all—through limiting the nuclear industry's liability in the case of catastrophic accidents. As seen last year in Japan, nuclear accidents can expose large populations to dangerous levels of radioactivity, triggering huge liabilities for the companies responsible. In the United States, the nuclear industry is protected by the Price-Anderson Act, which caps the liability of the nuclear industry at $13 billion in the case of an accident and shifts all additional liabilities to U.S. taxpayer. This is another massive subsidy that is ignored under the parameters of what our Republican colleagues would count as taxpayer support.

The Republican request also ignores the massive subsidies provided to one nuclear company that is teetering on the brink of bankruptcy, the United States Enrichment Corporation (USEC), and the impact those subsidies have on the rest of the uranium enrichment sector and the uranium mining industry. In just the past year, the Department of Energy has provided this company with about $130 million in waivers of its liability for cleaning up its nuclear wastes and successfully advocated for the authority to provide it with an additional $100 million in direct appropriations in the first part of the next fiscal year.

Additionally, in May 2012 DOE announced that it would provide tens of thousands of metric tons of uranium worth hundreds of millions of dollars to several entities in a bid to keep USEC's Paducah facility open for another year, and in possible contravention of section 3112 (d)(2)(B) of the USEC Privatization Act which requires DOE to ensure that such transfers will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry. While DOE has historically concluded[1] that "as a general matter, the introduction into the domestic market of uranium from Departmental inventories in amounts that do not exceed ten percent of the total annual fuel requirements of all licensed nuclear power plants should not have an adverse material impact on the domestic uranium industry," it has decided to exceed this threshold (by more than 50% in some cases) for many of its planned transfers of free uranium in its bid to forestall USEC's looming bankruptcy. These subsidies distort the domestic market for domestically mined uranium as well as uranium enrichment services, particularly in a market that is already depressed by a global decline in demand for nuclear fuel following the Fukushima meltdowns.

As the Ranking Democrat of the House Natural Resources Committee, and of its Energy and Mineral Resources Subcommittee, which has jurisdiction over oil and gas exploration on public lands, as well as uranium mining and conservation of oil, gas, and mineral resources of the United States, we therefore request that the GAO undertake a review of energy subsidies provided since the establishment of tax incentives for the oil and gas industry in 1916 that takes into account all forms of federal support for various energy technologies. Such a report will enable Congress and the American people to obtain a clearer understanding of the full range of federal subsidies and benefits provided to established and incumbent energy industries such as oil, natural gas, and nuclear energy, as well as incentives provided to newer energy providers such as wind, solar, and other renewables.

Thank you for your consideration of this request. Please contact Mr. Morgan Gray or Dr. Michal Freedhoff of the Committee's Democratic Staff if you have any questions at 202-225-5065.

Sincerely,

Edward J. Markey

Edward J. Markey
Ranking Democratic Member
Committee on Natural Resources

Rush Holt

Rush Holt
Ranking Democratic Member
Subcommittee on Energy and
Mineral Resources

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[1] Page 19 http://www.nuclear.gov/pdfFiles/inventory_plan_unclassified.pdf