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Joan Claybrook, President

May 28, 2004

Donald H. Rumsfeld, Secretary of Defense
The Pentagon
Room 3E880
Washington, DC 20301-1000
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Dear Secretary Rumsfeld,

This letter requests the Department of Defense to debar and/or suspend Reliant Energy from all federal contracts due to the company's April 2004 criminal indictment and \$125 million paid by the company to settle related allegations.

On May 19, 2004, the Department of Defense awarded a \$35,918,249 firm fixed price contract to Reliant Energy to deliver electricity to Andrews Air Force Base, Walter Reed Medical Center, Carderock Naval Weapons Testing Center, the National Institute of Standards and Technology, Adelphi Labs, the National Naval Medical Center and other federal installations.

This contract has been awarded to Reliant Energy despite the April 8, 2004 criminal indictment brought by the U.S. Department of Justice against the company for Reliant's role in helping to create the California energy crisis of 2000-01.

According to the federal grand jury criminal indictment, Reliant Energy has been charged with conspiracy to commit wire fraud, in violation of 18 USC § 371; wire fraud, in violation of 18 USC §§ 1343 and 2; and manipulation of the price of electricity in violation of 7 USC § 13(a)(2). The federal grand jury found that Reliant Energy "devised an illegal scheme to drive up the price of electricity in California by shutting off the majority of the company's power generation plants, intentionally creating the appearance of an electricity shortage, and disseminating false and misleading information to the market that wrongly attributed the shut-downs to environmental limitations."

In addition to the criminal indictment, Reliant Energy has agreed to pay \$125 million to three different government entities to settle allegations the company manipulated the California energy market.

48 CFR 9.400 "prescribes policies and procedures governing the debarment and suspension of contractors by agencies." 48 CFR 9.406-2 provides causes for debarment, and states, "the debarring official may debar...a contractor or subcontractor based on any other cause of so

serious or compelling a nature that it affects the present responsibility of the contractor or subcontractor.” Considering that the newly-awarded DoD contract to Reliant Energy is for the provision of electricity services, and considering that the criminal indictment against Reliant Energy is for the company’s fraudulent provision of electricity services provides a strong argument that Reliant Energy’s alleged actions meet the “serious or compelling” test.

48 CFR 9.407-2 provides causes for suspension, stating “the suspending official may suspend a contractor suspected, upon adequate evidence, of...indictment for any of the causes in paragraph (a) above constitutes adequate evidence for suspension.” Causes in paragraph (a) that meet this test are (3) and (7): “commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; or...commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor.”

From Public Citizen’s review of Reliant Energy’s criminal indictment and agreements to pay \$125 million to settle allegations related to the company’s manipulation of electricity markets, we believe that debarment and/or suspension are warranted. Public Citizen accordingly requests that the Department of Defense immediately initiate the debarment and/or suspension process against Reliant Energy.

Sincerely,

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