

1 **A POSTSCRIPT TO VOLUME TWO OF THE TESTIMONY OF**2 **STEPHEN P. DRESCH**

3 **Volume One of this testimony presented evidence concerning the natural-gas supply**
4 **contract into which Dynamic Energy Resources, Inc., and Oklahoma Natural Gas**
5 **Company entered on November 9, 1993, including an economic analysis of the**
6 **implications of that contract for ONG's general system ratepayers. Volume Two**
7 **presented facts concerning the circumstances under which that contract came into**
8 **existence. The following briefly summarizes events in the aftermath of the November**
9 **9, 1993, and thus can be considered a postscript to Volume Two. This postscript,**
10 **originally prepared as part of Volume Two, has not been filed with the Commission.**

11 **Q Please summarize events which followed the transactions of November 9, 1993.**

12 Within days of the closing of the ONG-Dynamic and ONG-ANG contracts, the Lums
13 chartered a plane and, with Stuart Price, John Tisdale and Richard Choi Bertsch, attended
14 the Asian Pacific Economic Cooperation [APEC] summit in Seattle, in which Ron Brown,
15 accompanied by the Lums daughter, Trisha, participated. At the invitation of the DNC the
16 Lums attended a breakfast for McLarty, and they and other members of their contingent
17 were White House invitees at an APEC Trade Ministers Reception. Nora Lum joined John
18 Huang and James Riady at the APEC presidential dinner. [Exhibit SPD-34, p. 65].

19 Soon after the closing Nora Lum made gifts of Dynamic stock to several individuals. Most
20 notably, Michael Brown received stock equal to five percent of the company. Helen Yee,
21 mother of Ron Brown's associate Melinda Yee, received one percent. Michael Brown was
22 retained by Dynamic at a consulting fee of \$7,500 per month and was given a \$60,000

1 corporate membership in a Robert Trent Jones golf club in Virginia. Later in 1994 Dynamic
2 opened a Washington office and hired former Commerce Department official (director of
3 Minority Business Development) Gilbert Colon to join Brown [Exhibits SPD-38 and -31].

4 In February 1994, just as Dynamic's installment payments to Gage were to commence, the
5 November 9, 1993, agreement was amended [Exhibit SPD-41], under which Gage released
6 Dynamic, the Lums and the Prices from their guarantees of the deferred payments in
7 exchange for an undisclosed lump-sum payment to an entity called GCI, a Cook Islands
8 corporation owned by another entity called GCI Trust [Exhibit SPD-42], of which James
9 H. Kitchens was identified as trustee and a Sweatman associate, Kit Barron Bradshaw, was
10 identified as administrator. The settlement amount, paid through Tulsa attorney Fred Slicker,
11 is variously identified as having been between \$1 million and \$1.5 million. This may, or may
12 not, be the payment of \$1.5 million made by Dynamic to Don M. Sweatman on February
13 10, 1994 [Exhibit SPD-32, p. 65]. Under the GCI trust agreement, an initial principal of \$4
14 million was to be discharged in monthly payments over two years, commencing in March
15 1994, with additional lump-sum payments to Miller and Kitchens. Precisely what payments
16 were made by the trust is not known, but it is known that monthly payments ceased in
17 February 1995. This suspension of payments would lead, in 1996, to the filing of a suit by
18 Ron Miller against Kitchens, as GCI trustee.

19 Because the second half of the contract would not be sold to Enogex for \$11.25 million until
20 March 1994, it is not clear how Dynamic financed the February settlement. Ignoring the
21 bridge loan from Llama Corporation, Dynamic was left on November 9, 1993, with only
22 about \$1.2 million, an amount inadequate to cover the \$1.5 million paid to Sweatman on

1 February 10, 1994, which may or may not be the same funds as the \$1 million to \$1.5
2 million paid through Slicker as part of the settlement agreement. In fact, it is unknown if the
3 bridge loan was ever repaid to Llama Corporation.

4 In March 1994, after the sale of the second half of the Dynamic contract to Enogex,
5 Dynamic made capital distributions of \$5.2 million to Nora Lum (through a complex series
6 of transactions involving Eugene Lum and foreign entities), \$2.6 million to the Prices and
7 \$150,000 to Michael Brown. Michael Brown's distribution was reportedly necessary to
8 pay the taxes of his father, Ron Brown [Exhibit SPD-32, p. 64]. In May 1994, after the
9 shareholder distribution, Dynamic was left with assets (cash) of about \$4.1 million (Exhibit
10 SPD-31, p. 56].

11 **Q In your answer to the preceding questions you have identified a number of parties**
12 **in addition to ONEOK and ONG, e.g., Arkla and McLarty, who benefited from the**
13 **“global settlement” and the silencing of Gage, which the Dynamic contract made**
14 **possible. Yet these other parties appear not to have shared in the cost of the**
15 **settlement. Why did ONG agree to bear the full burden of a settlement which had**
16 **other beneficiaries?**

17 A I must immediately point out that ONG expected to bear no cost associated with the global
18 settlement. By incorporating the settlement cost in the gas-purchase contract which Dynamic
19 eventually sold to ANG and Enogex, the entire cost has been passed through directly to
20 ONG's ratepayers, as I have demonstrated in Volume One of this testimony.

21 However, it is possible that other beneficiaries did reward ONEOK/ONG for its
22 accomplishment of the settlement. For example, four persons previously associated with

1 Gage and Ron Miller, but with varying degrees of involvement in Miller's research, have
2 told me, quite independently, that Miller had discovered that ONG had devised a means by
3 which to divert and sell PIK gas, a process in which Arkla was allegedly involved [Exhibit
4 SPD-43]. While I have not been able to confirm Miller's putative findings, this could
5 represent one of a number of means by which other beneficiaries might reward
6 ONEOK/ONG for its accomplishment.

7 Also, ONEOK and ONG are involved in an industry which is subject to significant state
8 and federal regulation, and the regulatory process can be used to "encourage" and reward
9 desired courses of action. Nolanda Butler Hill has told me that Ron Brown was in contact
10 with political appointees in the U.S. Department of Energy (including Secretary of Energy
11 Hazel O'Leary) and the Federal Energy Regulatory Administration with reference to the
12 Gage/ONG dispute. Whether regulatory means were used to encourage the settlement is
13 unknown but certainly possible.

14 **Q You have described a very complex, convoluted sequence of events. Have these**
15 **matters been the subject of any official investigations?**

16 A Yes, they have.

17 **Q Can you briefly describe these investigations?**

18 A The investigations of which I am aware include the following:

19 An investigation of the involvement of the Lums in political corruption in Hawaii was
20 conducted by the FBI from the late 1980s until 1993. Developments in Oklahoma involving
21 the Lums were not of direct interest to the Hawaii investigation, but information concerning
22 these was transferred from the Honolulu office of the FBI to the Oklahoma City and Tulsa

1 offices.

2 The FBI investigation of corruption involving the Commission was initiated in late 1988 and
3 continued at least through 1993. Agents of the FBI interviewed Ron Miller in the weeks just
4 preceding Commissioner Anthony's announcement of October 2, 1992.

5 Inspector Jack W. Dailey of the Oklahoma State Bureau of Investigation commenced an
6 investigation of the activities of Governor Walters' office (specifically of the governor's
7 appointments secretary, Alec Cunningham, and secretary of energy, Charles Nesbitt) in
8 1992. In 1993, with the agreement of Attorney General Loving, this investigation was
9 transferred to the FBI.

10 Investigations of Secretary of Commerce Ron Brown commenced in 1993 with allegations
11 of his receipt of a bribe in exchange for normalization of trade relations with Vietnam. While
12 the matter was dropped after conduct of a grand jury investigation was transferred from a
13 Florida U.S. Attorney to attorneys from the U.S. Department of Justice in Washington, in
14 1995 Attorney General Reno requested the appointment of an independent counsel to
15 investigate Brown's financial affairs, and in the fall of 1995 the charge to the independent
16 counsel, Daniel Pearson, was broadened to include explicitly Brown's relationship with the
17 Lums and Dynamic Energy.

18 At least by 1995 the Office of the Inspector General of the U.S. Department of Commerce
19 had initiated an investigation, apparently focusing on the involvement in Dynamic of
20 Commerce Secretary Ron Brown and political-appointee Melinda Yee.

21 Also in 1995, the U.S. House Committee on Government Reform and Oversight
22 commenced an investigation as part of a broader inquiry into campaign-finance abuses, and

1 by 1997 the Lums became a particular focus of that investigation.

2 **Q Did any prosecutions result from these investigations?**

3 A Yes, in 1993 utility attorney William Anderson, former Commissioner Bob Hopkins and
4 Jewell Callaham, owner of Pine Telephone, were indicted as a result of the Commission
5 investigation. Anderson and Hopkins were convicted.

6 In 1997 Nora and Eugene Lum, their daughter Trisha Lum and Michael Brown were
7 indicted for violations of federal campaign finance laws (specifically for making conduit
8 contributions to the Kennedy and Price campaigns). Nora and Eugene Lum pled guilty to
9 felony charges, while Trisha Lum and Michael Brown pled guilty to misdemeanor violations.

10 In 1998 Eugene Lum pled guilty to criminal income tax charges related to the stock
11 distribution and other payments from Dynamic.

12 **Q Have the investigations which you have outlined been terminated?**

13 A In general, yes. The FBI investigations in Hawaii and Oklahoma terminated in 1993 or
14 1994. Nora Lum has claimed that the Hawaii investigation was terminated by Webster
15 Hubbell during his tenure as Associate Attorney General [Exhibit SPD-32, p. 68]. The
16 Oklahoma investigation into Commission corruption effectively terminated after then U.S.
17 Attorney (now U.S. District Judge) Vicki Miles-LaGrange “recused” her office from
18 involvement in the prosecution of Anderson and Hopkins (whose trial was conducted by
19 staff of the Dallas U.S. Attorney).

20 The investigation of independent counsel Daniel Pearson was terminated and further
21 investigation was transferred to the U.S. Department of Justice immediately after the death
22 of Ron Brown on April 3, 1996. The Justice investigation appears to have terminated with

1 the prosecutions of the Lums and Michael Brown.

2 The House Government Reform Committee appears to have concluded its investigation
3 after a draft version of its staff report [Exhibit SPD-32] was completed in 1998. The full
4 report has never been officially released by the Committee.

5 No information concerning the investigation conducted by the Inspector General of the
6 Commerce Department has ever been made public. However, it can be presumed that the
7 death of Ron Brown and the departure of Melinda Yee (who joined the staff of San
8 Francisco mayor Willie Brown) led to the closure of that investigation.

9 **Q Can you identify particular events which appear to have been associated with the**
10 **termination of these investigations?**

11 A Yes. The change in control of the U.S. Department of Justice which occurred in January
12 1993, when Webster Hubbell became acting attorney general, appears to have had
13 significant consequences for the federal investigations in Hawaii and Oklahoma.

14 As noted, the death of Ron Brown resulted in the termination of Independent Counsel
15 Pearson's investigation, and the successor investigation does not appear to have been
16 vigorously pursued after it was transferred to the U.S. Department of Justice. For example,
17 although the plea agreements of Nora and Eugene Lum, Trisha Lum and Michael Brown in
18 1997 and 1998 nominally required that they cooperate with the investigators, no further
19 investigations or prosecutions resulted.

20 Finally, the death of Ron Miller on October 12, 1997, came in a period of particularly
21 intense investigative activity, as the following chronology [taken from footnote 10 of Exhibit
22 SPD-44] will demonstrate:

1 7-31-97 The House of Representatives Committee on Government Reform and
2 Oversight (Burton Committee) subpoenaed documents from Michael Brown
3 about questionable relationships between Ron Brown, Nora and Gene Lum, the
4 Commerce Department, ONG and others connected to Dynamic Energy
5 Resources.

6 8-5-97 Ron Miller provided 165 tape-recorded conversations to the FBI. The
7 recordings were discussions Miller had with individuals involved in litigation and
8 business related to ONG, Dynamic Energy Resources, Nora and Gene Lum,
9 Don Sweatman, James Kitchens and others.

10 8-12-97 Staff of the Burton Committee interviewed Ron Miller about the investigation of
11 Ron Brown, Nora and Gene Lum and Dynamic Energy Resources.

12 8-13-97 Attorneys for Michael Brown requested extension of time for production of
13 documents sought by Burton's subpoena of 7-31-97 and objected to the scope
14 of the subpoena.

15 8-14-97 James Proctor, advisor to Commissioner Bob Anthony, issued a memorandum
16 to Anthony which estimated that the ONG-Dynamic contract is costing ONG's
17 rate payers \$40-\$65 million more than necessary for gas purchases. Proctor
18 recommended that the OCC not allow these excessive costs to be charged to
19 ONG's rate payers. Significantly, the Proctor memorandum explicitly identified
20 the political involvements of the various parties and attracted substantial
21 attention, especially on the part of the parties and their attorneys [Exhibit
22 SPD-45].

1 9-2-97 The Burton Committee subpoenaed documents from Ron Miller about the
2 investigation of Ron Brown, Nora and Gene Lum and Dynamic Energy
3 Resources.

4 9-5-97 The Burton Committee deposed Thomas F. McLarty III. McLarty, former
5 CEO of ARKLA when bribes were paid to Chairman Anthony, was asked
6 questions about ARKLA attorney Bill Anderson. McLarty's attorneys
7 successfully kept him from having to be deposed on issues about OCC
8 corruption. In particular, on page 16 of the deposition, committee attorney
9 Barbara Comstock tried to ask McLarty about Bill Anderson, but, before the
10 question could be completely stated, McLarty's attorneys successfully diverted
11 the questioning to other topics.

12 Mr. McLarty denied knowing Nora and Gene Lum, but admitted knowing of
13 Dynamic Energy Resources. Also, he admitted that Ron Brown had discussed
14 with him about his son, Michael Brown, being placed on the Board of Directors
15 of Dynamic. Although Mr. McLarty did not recall ever meeting the Lums, it is
16 disclosed through the deposition (page 98) that he had breakfast with them at
17 an APEC meeting in Seattle, Washington on November 15, 1993. This
18 breakfast meeting occurred six days after closing the ONG/Creek
19 Systems/DERI transaction in Oklahoma. Also, he testified that he had no
20 knowledge of John Tisdale representing the Lums.

21 9-12-97 A documentary written by Peter Boyer, "Follow the Money", appeared on the
22 PBS series, Frontline. The show built on Boyer's previous reporting for The

1 New Yorker in his article “American Guanxi” and PBS Frontline documentary
2 “The Fixers”. In detail, the article set forth the questionable relationships
3 between Ron Brown, Thomas McLarty, Nora and Gene Lum, Commerce
4 Department, ONG and others connected to Dynamic Energy Resources.
5 Ron Miller appeared and was interviewed in the documentary.

6 10-2-97 Ron Miller became ill at his office in Norman, Oklahoma.

7 10-4-97 Ron Miller’s wife took him to the emergency room of Norman Regional
8 Hospital, and he was admitted to the hospital early the next morning.

9 10-8-97 Chairman Dan Burton of the Government Reform and Oversight Committee
10 presented opening statement for the beginning of his committee’s review of
11 campaign-finance irregularities. Several paragraphs of his speech addressed
12 Nora and Gene Lum and Dynamic Energy Resources. During his speech, he
13 mentioned that the Lums agreed to provide testimony about their knowledge of
14 abuses in return for immunity from prosecution. However, in order to grant
15 immunity, the bipartisan committee would need to approve the measure by a
16 two-thirds vote of the members.

17 Ron Miller was transferred from Norman Regional Hospital to Baptist Integris
18 Medical Center in Oklahoma City.

19 10-12-97 Ron Miller died of unknown causes at Baptist Integris Medical Center.

20 10-13-97 The initial report of the medical examiner indicated the cause of Ron Miller’s
21 death was pending and possible threat to public health.

22 10-15-97 Memorial service was held for Ron Miller at Saint Stephen’s United Methodist

1 Church in Norman. Miller's partner and childhood friend, Jim Kitchens, and
2 Don Sweatman, an agent for the Lums and DERI, were not at the funeral.
3 However, Gage employee, Doug Anderson visited the Gage offices immediately
4 after the service and found Kitchens and Sweatman rifling the office files.

5 10-22-97 The Burton Committee requested from the FBI 165 tape-recorded
6 conversations provided to the FBI on 8/5/97 by Ron Miller. The recordings
7 were discussions Miller had with individuals involved in litigation and business
8 related to ONG, Dynamic Energy Resources, Nora and Gene Lum, Don
9 Sweatman, James Kitchens and others. After several months of delay the
10 Department of Justice refused on the grounds of an on-going investigation.

11 10-24-97 Attorneys for Michael Brown raised Fifth Amendment rights as grounds for
12 refusing to comply with the Burton Committee's subpoena for documents,
13 issued on 7/31/97.

14 10-30-97 Ron Miller's pending lawsuit filed against Jim Kitchens, his business partner in
15 Gage and Creek Systems, was amended to include Don Sweatman and Kit
16 Barron Bradshaw as defendants. Necessarily, the decision to amend the lawsuit
17 was made before Ron Miller became ill on October 2, 1997.

18 While the various investigations may have faded away in any event, Miller's death removed
19 a source of both significant information and pressure for further investigation.

20 There is some evidence of continuing investigative activity. For example, in mid 2001 a
21 former associate of Mr. Miller appeared under subpoena before a federal grand jury in
22 Tulsa, and another former Miller associate was interviewed by agents of the FBI and IRS.