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EXXON COMPANY, U.S.A.

POUCH 6601 • ANCHORAGE, ALASKA 99502

PRODUCTION DEPARTMENT
ALASKA OPERATIONS

March 17, 1983

Representative Mae Tischer
Alaska State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

Last year a move by a number of consumer and supplier groups was begun to deregulate natural gas, the only primary U.S. energy source still under federal price controls. Unfortunately, the 97th Congress failed to address the issue. However, recently President Reagan proposed comprehensive natural gas legislation to the Congress that would achieve a free market at the wellhead by 1986. Congressional hearings are now being held on this important bill.

Exxon supports the decontrol of natural gas at the earliest possible date and believes that the best way to accomplish this is through a comprehensive, phased-in approach, such as that proposed by President Reagan. We do, however, believe that some modification of his proposal is needed to limit the definition of the so-called "gas cap" price, and to make more flexible the limitations on interstate pipelines' ability to "pass-through" gas cost increases. We believe that these would encourage the negotiation and renegotiation of contracts between producers and pipelines, which is one important element of the decontrol process.

Despite the claims by some in Washington, D.C., decontrol of natural gas will not doom the Alaska Natural Gas Transportation System. The truth is, decontrol will have no impact on the current planning for the ANGTS pipeline or the prospects for its completion. In fact, the move toward decontrol can be of benefit to the State of Alaska. The recent report by Booz, Allen and Hamilton to the State on alternatives for natural gas transportation and use details five independent studies of the nation's supply and demand situation for this fuel between now and the year 2000. All five studies show that, beginning in the 1990's, the Lower 48 demand for natural gas will outstrip Lower 48 supplies. The balance must be made up from Alaskan natural gas, imported liquified natural gas or other gas supplements. The anticipated shortfall in Lower 48 natural gas supplies is estimated to be approximately three times the amount of gas available from Prudhoe Bay. With decontrol, the value of Alaska's natural gas will be determined by the marketplace, not by artificial conditions imposed by

government control. We believe that the State of Alaska, its citizens, and those of us producing gas in the state will, in the long term, benefit from allowing market forces to prevail.

I hope that you agree with us on the benefits of natural gas decontrol and the need for some refinement of the President's proposal. If you do, I would urge you to let Frank Murkowski (who is on the Senate Energy Committee), Ted Stevens, and Don Young know of your support while the Congress is actively considering decontrol. You may find occasion to talk with them in person while they are home for the Easter recess, March 25 thru April 5. In any event, your contacts will be most effective if made during the next two or three weeks.

Thank you for your interest. For your information, I am enclosing a copy of a recent paper on the benefits of deregulation, published by the Natural Gas Consumers Information Center, an independent gas users coalition. I hope you'll take time to look it over. If I can provide any further information on this important issue, please let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. H. Weaver". The signature is stylized, with a large, looped "R" and a cursive "H" and "W".

R. H. Weaver
Alaska Operations Manager

R:HW/dag
Enclosure

FRANK H. MURKOWSKI

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United States Senate

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(907) 455-0233

April 19, 1983

The Honorable Mae Tischer
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mae:

Thank you for providing me with a copy of your resolution urging the decontrol of natural gas prices. I favor the elimination of price controls.

As you may know, the wellhead price of natural gas is regulated by a complex, 28-tier pricing system under which gas prices may vary as much as 3500%. This pricing system, established under the Natural Gas Policy Act of 1978, is so rigid that it will not allow gas prices to respond to market forces. Thus, despite the fact that we have a surplus of gas deliverability, prices are going up. I believe, therefore, we must move toward the free market in such a way as to allow gas prices to moderate in response to current decreasing demand and surplus of deliverability.

The President has proposed a plan designed to move us to the free market over a period of 2-3 years while providing the consumer some protection from increasing gas prices. This plan, if enacted by Congress, would effectively remove all Federal controls on the wellhead price of natural gas by January 1, 1986. The President's plan would attempt to provide consumer protection through a "price cap" and a limitation on the costs a pipeline may pass on to its consumers during the interim period prior to complete decontrol.

Although I feel the President's approach is an innovative one, it contains several elements that trouble me greatly. For instance, the President's plan would allow either party to a gas purchase contract to terminate that contract on January 1, 1985. For instance, if a large electrical utility has secured a long term, low price gas purchase contract and accordingly makes an investment decision to build a powerplant on or near the natural gas field from which the gas is bought, it is conceivable that the producers who sell the gas to the utility could refuse to honor the contract on January 1, 1985. The utility, in need of the gas from the field at which it has built its powerplant, would be in a position of having to pay whatever the producers

The Honorable Mae Tischer

April 19, 1983

felt the utility could bear. That cost, of course, would be passed on to consumers.

In the lower 48, this situation would be minimized by provisions in the President's bill which would allow the utility to buy gas elsewhere and arrange to have that gas brought to it through the existing interstate gas pipeline system in the lower 48. However, because Alaska is not interconnected with the lower 48 pipeline network, the ability of the utility to "shop around" for alternative gas is severely limited.

The example I have outlined exists in Alaska, where Chugach Electric built a powerplant on the Beluga gas field. Chugach's decision to build that powerplant was a sound investment decision based on a long term, low price contract. I do not believe we can "change the rules in the middle of the game" and ask Alaskan consumers to bear the potentially severe costs as the result of this legislation. Therefore, I will be proposing some changes to the President's bill during its consideration by the Energy Committee.

In general, I support decontrol. Continued price controls will only serve to create shortages in a rising market and distorted prices in a falling market. Where the free market can work, we must allow it to work. However, there must be provisions made for special situations such as the one I have outlined earlier, and I will continue to work with the President and the other members of the Energy Committee to address these issues in the context of the larger need to bring rationality and responsiveness to the nation's natural gas market.

Sincerely,



Frank H. Murkowski
United States Senator

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COMMITTEE ON APPROPRIATIONS
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MAY 6 1983

May 2, 1983

The Honorable Mae Tischer
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mae:

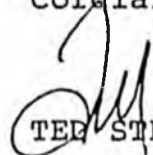
Thanks for sending me a copy of your letter to
R. H. Weaver of Exxon concerning natural gas decontrol.

One aspect of natural gas decontrol you are probably
aware of is that the market-out provisions in the Admin-
istration's bill, Section 303 of S. 615, could result in
significantly higher gas prices for states with no inter-
state pipelines, like Alaska. Senator Murkowski and I are
working to protect Alaska from that aspect of the market-out
provisions of S. 615.

Again, thanks for sending me a copy of your resolution.
I, too, support the over-all objectives of the Adminis-
tration's natural gas proposals.

With best wishes,

Cordially,


TED STEVENS

John Lichtblau advises:

Let's decontrol all natural gas

In everyone's best interest, we should

change the Natural Gas Policy Act so as to decontrol the wellhead price of gas

YOU MAY NOT BE AWARE OF IT (59 percent of Americans are not, a polling firm reports), but the price of natural gas is controlled by federal law. In fact, it is the only commodity still subject to price regulation in peacetime America.

Furthermore, natural gas prices have been regulated for a long time. The Natural Gas Act of 1938 said that companies transporting gas across state lines or selling gas for resale in interstate commerce were utilities and their rates would be fixed like those of the light company and the water works.

In 1954, the U.S. Supreme Court's lamentable "Phillips Decision" extended price controls all the way to the wellhead for natural gas sold for resale in interstate commerce, even though gas producers could scarcely be compared to utilities. (Gas sold by producers for consumption within the state of its origin remained free of controls.) In pricing natural gas, federal regulators set rates so low that gas pro-

ducers eventually were discouraged from looking for more. By the mid-1970s rates of production were declining, reserves were plummeting, and gas shortages were beginning to occur in states having no intrastate supply. Brownouts occurred. Gas-fueled factories shut down. Utilities were forbidden to hook up new customers.

Clearly, something had to be done. So, in 1978, Congress did something. It passed the Natural Gas Policy Act. The intent of NGPA was to decontrol new natural gas in time, but to protect consumers from a sudden leap in prices by doing it gradually. For the present, however, price controls were extended to the wellhead for all gas, and more than two-dozen categories were set up wherein some gas would be treated differently according to certain standards. "Old" gas (found before the passage of NGPA) would be regulated until gone. Most "new" gas (found after passage of NGPA) would be deregulated in 1985. New "deep" gas (found below 15,000 feet) would be deregulated earlier and allowed to seek its price on the free market beginning in 1979.

After four years of the NGPA, it has become quite clear that Uncle Sam has once again used his economic shotgun to

shoot himself in the foot. The search for shallow deposits of gas that might yield a less expensive product has been discouraged by price controls. On the other hand, the search for gas in deep horizons has been encouraged because it can be sold on the open market, even though it is a high-cost source. Price distortions abound; for customers in some regions, prices are woefully high, while in other regions, customers enjoy low prices. And while gas supplies are currently ample, many analysts see a shortage developing within a few years, even though the potential for finding more gas is good.

With a sense of *deja vu*, energy economist John Lichtblau observes that the government's efforts to "protect" consumers by controlling prices might serve as a textbook example of the economic truism that "new legislation passed to correct economic distortions caused by old legislation will, in turn, create new distor-

We have gas selling for as little as 50 cents per thousand cubic feet (mcf) in some fields and for as much as \$9 per mcf in other fields.

tions." Such is the case. Seeking to help consumers, Congress has hurt them in a different way.

"It is clear by now," Lichtblau advises, "that the NGPA is not achieving its intended goal. We should change it to permit phased decontrol of all natural gas over the next few years. And the sooner we make the change, the better."

As president of the New York-based Petroleum Industry Research Foundation, Inc. (PIRINC), Lichtblau heads one of the nation's most influential independent study groups. Specializing in research and objective analysis of energy-related issues, PIRINC publishes studies on a wide range of subjects. Lichtblau's integrity and methods have earned him a level of respect that places him among the top experts in the world in his specialty. His views widely sought and his opinions much quoted, Lichtblau argues forcefully that price controls make no economic sense. In a recent interview, he explained why:

EXXON USA: *Is the natural gas market in trouble?*

LICHTBLAU: There are problems, but they are not as visible to the public as they were in past years because we don't have a shortage of gas just now. Demand has declined, and producers presently are able to meet demands. We'll probably consume between 19 and 20 trillion cubic feet of gas in 1982 compared to 22 trillion cubic feet in 1973. Why has demand fallen? Partly because of the increase in cost, which has caused consumers to use less, and partly because of the current business recession. The first has caused some consumers to switch to other fuels while others have sim-

ply-applied conservation measures so as to require less fuel. But the surplus is only temporary. One reason is the expected economic recovery. Another is that for years we have taken out of the ground substantially more natural gas than we have found. Even in 1981 when total usable gas reserves rose for the first time in 13 years, discoveries of new gas again fell short of production. But a more immediate problem is the tremendous price distortions the NGPA has caused. We have gas selling for as little as 50 cents per thousand cubic feet (mcf) in some fields and for as much as \$9 per mcf in other fields. Some regions get more of the lower priced gas than oth-

ers. You can imagine how this distorts competition between industrial consumers located in different regions. This is a direct result of the NGPA.

EXXON USA: *Wasn't the NGPA supposed to take care of such problems by gradual decontrol?*

LICHTBLAU: That may have been the intent. But actually, under NGPA, most of the "old" gas, which currently accounts for most of production, will never be decontrolled. Its share will of course decline, and eventually it will disappear. But by 1990 it may still account for about 20 percent of total domestic gas supplies. Thus, for the next 9 to 10 years, the U. S. gas market will remain substantially distorted by the NGPA. Congress opted for this partial decontrol because it feared that if all controls were removed, there would be a sudden "spike" or leap in the price which would be difficult for consumers to bear. In 1978, when the price of gas averaged 90¢ per mcf at the wellhead, equivalent to about \$5.50 per barrel of oil, while oil was actually selling for \$12 to \$13, this fear may have been real. So a transition system was developed. Congress wanted to protect consumers. But the system has created new distortions that are hurting consumers — and has not protected them from an increase of 175 percent in the average U. S. wellhead price since 1978. The system exempted from control all new deep gas found below 15,000 feet, but it controlled until 1985 new shallower gas and, of



As president of the Petroleum Industry Research Foundation, John Lichtblau is often asked to analyze and explain the economic aspects of petroleum supply and demand.

The plain fact is that producers, taken as a whole, are not getting enough money for their product because they are not recovering the replacement cost of it.

...kept controls on all old gas permanently.

CON USA: What did this do to the gas market?

BTBLAU: For one thing, it made it attractive to drill for very deep and more expensive gas. It also discouraged gas producers from maximizing investment technology for increasing production from existing gas fields. This means that these wells will have a shorter productive life than they would have in a free market. The plain fact is that producers, taken as a whole, are not getting enough money for their product because they are not recovering the replacement cost of it. The result is that supplies will probably continue to decline.

CON USA: How does this translate into consumer concerns?

BTBLAU: Right now, gas consumers in some regions are paying substantially more for gas than those elsewhere because most of their supplies come from those more expensive and costlier wells. Others pay less for gas at present but will eventually have to pay proportionately more. If we were to move away from controls over the next few years, say by 1985, no consumer or company would then be favored over another because of different wellhead costs. There would be no sudden "spike" as prices would gradually rise to parity with other regions. It might be worth mentioning in this connection that the cost of gas at the wellhead is less than half of the cost to consumers. Transportation of gas from the wellhead to the utility and distribution by

A FEW FACTS ABOUT NATURAL GAS

What Is It?

Natural gas consists mostly of a simple hydrocarbon called methane. The recipe for methane is four atoms of hydrogen to one atom of carbon. In underground reservoirs, methane may be mixed with heavier hydrocarbon gases such as ethane or butane, with rare elemental gases such as neon or helium, and with impurities such as carbon dioxide, hydrogen sulfide, and salt water. Before it is sold as pipeline gas, methane is separated from these other elements and compounds.

Where and How Much?

Natural gas is America's leading source of domestically produced energy. Thirty-one states produce natural gas in commercial quantities for a total volume of about 19 trillion cubic feet per year. Texas and Louisiana lead, with more than half of the total production. They are followed in order by Oklahoma, New Mexico, Kansas, Wyoming, and California. The nation records some 200 trillion cubic feet of proved, recoverable gas reserves. Some authorities have suggested that as much as 2,000 trillion cubic feet of gas may exist in the United States, of which almost 600 trillion cubic feet might actually be recovered. About 26 percent of the energy that America consumes comes from natural gas.

Who Finds It?

Oil and gas are found by drilling wells, and they are often found together or

in similar geological formations. Consequently, most of the 19,200 companies that explore for and produce oil also explore for and produce gas. Last year, they produced natural gas from more than 189,000 gas wells and from tens of thousands of oil wells, as well. These companies are private enterprises risking private capital in the hope of making a profitable discovery.

Who Buys It from Producers?

Most natural gas is purchased at the wellhead from the producers by some 100 gas transmission companies. These companies transmit the gas to market through pipelines, which are subject to regulation as public utilities. There are more than 250,000 miles of gas transmission pipelines in operation in the U.S. All 50 states use natural gas, but it is transported to Hawaii in liquid form and to Vermont via pipeline from Canada. Most gas is sold through long-term contracts negotiated between producers and transmission companies. The latter contract for enough gas supplies to meet their customers' anticipated demands.

Who Distributes It?

In most instances, utilities buy natural gas from transmission companies and resell it to industrial, commercial, and residential users. Over 1,400 utilities distribute gas directly to almost 50 million customers through 700,000 miles of distribution mains. The cost of transmission and distribution today account for about half of the price of natural gas to the average residential customer.

Over half of any price increase for gas would go to federal, state, and local governments in the form of taxes.

the utility to consumers account for about 55 to 60 percent of the cost of residential gas.

EXXON USA: *What about charges that decontrol of gas prices will put an unfair burden on the poor?*

LICHTBLAU: Poverty is a social and political problem. It belongs in the area of welfare policy rather than energy policy. Poor people, by definition, do not have enough of the necessities of life and that includes not only energy for heat but also food, shelter, clothing, transportation, and medical care. The prices of these latter items are not controlled, nor should they be. Keeping prices artificially low for everyone out of consideration for the poor doesn't make economic sense; that applies also to the price of natural gas. This country has a long and good record of federal, state, and local programs to help underprivileged people. Price controls have not been a part of these programs, and correctly so.

EXXON USA: *Some say there's no natural gas left to find so there's no reason to encourage anyone to look for it? True?*

LICHTBLAU: Not true. There's lots of natural gas left in this country. In fact, the natural gas potential is quite possibly larger than the oil potential, because we haven't ever seriously looked for natural gas until quite recently. On the other hand, we've been looking for oil for 125 years. Why? Because, on the whole, it has been profitable to do so. It is largely a matter of drilling. At present, the NGPA gives excessive encouragement to the search for new gas in the very deep formations, to the detriment of other areas. But large volumes of gas remain to be found at shallower depths. The NGPA also discourages

investment in maximum recovery of gas from existing fields, because most of them remain permanently regulated at low prices.

EXXON USA: *Why can't oil companies use their oil profits to look for more gas?*

LICHTBLAU: In 1982, oil companies did not do well. No oil company has escaped sharp declines in profits. The money oil companies earned in 1979 and 1980 when oil prices went up has largely been spent on looking for more oil and gas. Now, demand has declined and oil prices have gone down. If you look at the earnings of companies, they are by no means excessive. Furthermore, alone among the industries, oil companies pay a huge excise tax called the "windfall profit tax." No other industry pays such a tax. It subtracts money from the search for both oil and gas.

EXXON USA: *Some politicians want to levy a "windfall profit tax" on gas. Does that make sense?*

LICHTBLAU: It would definitely be counterproductive. Gas producers need that money to look for new gas supplies, and they need the incentive of a market price and corresponding profit to maintain their search for new gas. Even without an excise tax on gas, over half of any price increase for gas would go to federal, state, and local governments in the form of taxes.

EXXON USA: *What about turning to alternatives for energy in place of natural gas?*

LICHTBLAU: A couple of years ago when

it seemed that oil prices would go to \$55 to \$60 a barrel by the mid-1980s, many expensive alternatives began to look attractive. But now this is no longer considered likely. Prices have actually declined since 1981. So the near-term economic picture for shale oil and solar thermal and other alternatives simply doesn't look good any more. For the foreseeable future, natural gas will remain a far more attractive fuel, provided we do not stifle its availability through regulatory constraints.

EXXON USA: *As a final question, in 1985, when the price control of new gas ends under the NGPA, will the price of gas to consumers be higher or lower than it would be if all gas were decontrolled?*

LICHTBLAU: Some respected studies suggest the price would be somewhat higher. In my view, the average wellhead price of gas would be approximately the same in both cases, since it will have reached parity with oil by then with or without the NGPA. This is why the claim of some "consumer advocates" that the prices would remain lower under the NGPA is wrong. However, there is a difference between the two scenarios. Under the NGPA the average price would consist of a variety of prices significantly above and below the parity price level while under full decontrol all prices would cluster around the parity level. Thus, the NGPA would perpetuate the existing distortions favoring some consumers and areas at the expense of others. Under phased decontrol, by contrast, the distortions will have ended by 1985, to be replaced by a more equitable as well as more efficient pricing system. On the whole, this is bound to benefit consumers of gas.

DOWNES MATTHE

NATURAL GAS CONSUMERS INFORMATION CENTER

JANUARY 1983

COMMENTARY ON DEREGULATION

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NATURAL GAS: HOW GOVERNMENT REGULATIONS AFFECT THE MARKET

New rules spur higher prices despite oversupply, conservation

By Kathleen Day
USA TODAY

When a store overstocks galoshes or grapes, or any other item, it usually cuts prices to entice customers. But that isn't happening with natural gas.

The 44.2 million U.S. consumers who heat homes with gas are watching bills soar as much as 70 percent over last winter's, even though the gas

Federal law makes it profitable to sell less of cheap gas and to concentrate on the most expensive natural gas.

industry has 15 percent to 20 percent more fuel than even the harshest winter would require.

What's going on?

The short answer is government regulation. Changes in federal law have made it profitable — even irresistible — for gas producers and suppliers to sell less of the cheap, easy-to-get gas and to concentrate instead on the most expensive natural gas they can find.

That has brought rising prices, although conservation and recession have reduced demand for gas. Residential natural gas use is down 20 percent since 1973, and business consumption down 12 percent to 15 percent.

Here's a breakdown of the factors behind today's natural gas market.

The producers: Since the 1950s, the federal government has regulated the price natural gas producers can charge to the interstate pipelines. The pipelines transport gas to utilities, which then deliver it to homes and businesses.

By 1975, the government-controlled price was so artificially low

that producers claimed they could not profit from finding and developing new gas sources.

Gas was cheap for customers who could get it. But it was scarce because producers had stopped drilling. The 20 major pipelines, which supply 90 percent of the nation's needs, were so strapped for new gas supplies that public service commissions in every state forbade utilities from taking on new natural gas customers. **By the winter of 1975-76, the country barely had enough natural gas to go around.**

That got the attention of Congress and President Jimmy Carter and resulted in the Natural Gas Policy Act of 1978. Intended to make

gas supplies plentiful by making production profitable, the act encouraged production of expensive, hard-to-get-at natural gas reserves locked in abundance under U.S. soil.

The act divided gas prices into three categories:

1 **Old gas** — from wells drilled before 1977 — **whose price would continue to be regulated forever.** Old gas is the cheapest (now costing from 20 cents to \$2.20 per thousand cubic feet), and accounts for about 57 percent of the supply available under contract to pipelines.

2 **New gas** — from wells drilled after 1977 — whose price will gradually be deregulated by 1985. Generally, price controls come off quickest for gas that's most expensive to produce. New gas costs from \$4.20 to \$6 per thousand cubic feet and accounts for 38 percent of supply.

3 **Deep gas** — from wells drilled after 1977 for gas below 15,000 feet — whose price was deregulated immediately. There is no federal price ceiling on deep gas, the most expensive gas to produce. It now costs about \$7.50 per thousand

Deregulate Natural Gas To Solve Consumer Problems

Natural gas regulatory problems — and the federal law that seems to be at the root of the problems — are explored in this publication.

Running through this collection of articles and commentary is the theme: deregulate natural gas to end market distortions, inequitable prices, and uncertain supplies.

The theme is expressed by journalists, policy analysts, and businessmen.

This background report is published by the Natural Gas Consumers Information Center as a service to consumers and to Congress. The Center is supported by a number of organizations whose members are major consumers of natural gas and who are on record favoring natural gas deregulation.

For more information, call or write NGCIC, Suite 900, 605 Fourteenth Street, NW, Washington, DC 20005. Telephone: (202/347-6200).

cubic feet and accounts for about 5 percent of supply.

Though not regulated by the Natural Gas Act, an important fourth category is imported gas, which costs from \$4.94 to \$7.18. In 1981, imported gas made up 5 percent of U.S. supply. For 1982 it's expected to climb to 10 percent.

The most expensive categories — deep gas and imported gas — account for only 10 percent to 15 percent of U.S. supply. But because they cost so much more, they have a major impact on consumers' bills.

That trend should continue: The natural gas act has succeeded in stimulating producers to aggressively drill for profitable gas — the deep gas that can be sold for whatever price the market will bear.

"If you were a producer in that situation," says Mary Novak, energy analyst at Data Resources Inc., "you would have done the same thing — drill for what you could make the most money on."

There have been charges that some producers are abandoning wells that could still produce older, cheaper gas, in order to produce gas from more profitable wells. But, the volume of gas that is being "shut-in" is small, according to Department of Energy officials.

The pipelines: Pipelines have assumed producers would continue to concentrate on expensive gas. Spurred by fears of the 1970s scarcity,

the pipelines madly contracted for as much gas as they could get — taking long-term contracts to buy expensive gas at whatever terms producers demanded.

And that's where things went wrong.

What the pipelines never anticipated was that the worldwide recession and an emerging oil glut would send other fuel prices down.

So pipelines suddenly found themselves stuck with long-term

natural gas contracts, most of which had clauses allowing price hikes that are way out of step with today's lowered inflation rate, reduced demand and better-priced alternative fuels.

"And unfortunately the clauses only allow prices to go up," says Robert Means of the Federal Energy

The new rule prohibiting pass-through of extra contract costs won't help consumers this winter and will only dampen next year's home heating bills by two percent, energy officials say.

Regulatory Commission. "If the escalator clauses allowed prices to float with the market — to go down as well as up — then today's situation could perhaps have been avoided."

Worse, many contracts have "take-or-pay" clauses; they require the pipelines to pay for the expensive gas supplies whether they take the gas or even need it.

"It was like a bunch of starving children let loose in a candy store," says one industry source. "The pipelines devoured everything in sight. Now it's the next morning and they don't feel so good."

And neither do consumers. Currently, virtually all the cheaper old gas is under contract. But, ironically, pipelines are some-

times opting not to exercise contracts to buy the cheaper gas and instead are buying the more expensive gas.

Why? For three reasons, according to the General Accounting Office:

❑ Pipelines are under contract to buy more gas than they can sell, forcing them to forfeit on some contracts. Because contracts for the more expensive new gas are likely to have stiffer forfeiture clauses,

pipelines lose less money by forfeiting on contracts for old gas.

❑ Pipelines may prefer to buy gas from their own affiliated producers or subsidiaries, rather than from unaffiliated producers — even if it's more expensive.

❑ If a pipeline pays for and gets

gas from a producer, it is allowed to pass along the extra costs directly to utilities. But if the pipeline pays for but forfeits the contract and does not take gas from a producer, it cannot recover those costs immediately; the government recently decided it would not allow such cost "pass-throughs" if old, cheaper gas

was available to the pipeline. But energy officials say the new rule won't help consumers this winter and will only dampen next year's home heating bills by 2 percent.

The utilities: Distributors — primarily utilities — are similarly hemmed in by long-term contracts with the pipelines, causing them to raise customer rates. Those rising prices have prompted industrial and residential customers to use less gas — creating revenue shortfalls for utilities that require further rate hikes.

For a while, it appeared the pipelines might deliberately break the high-priced contracts, forcing prolonged court fights. But, says a spokesman for Transcontinental Gas Pipe Line Co. — among the top 20 interstate transporters — the pipelines now want to negotiate, and producers may be willing.

(December 27, 1982)

This article appeared as a guest column in *Plant Energy Management* and is reprinted with permission.

SUPPORT BROADENS FOR DECONTROL

By Jack Elam

Chairman

Process Gas Consumers Group, Washington, D.C., and vice president and general counsel of Cone Mills Corporation, Greensboro, N.C.

Members of Congress who are weighing the natural gas decontrol issue should be impressed by the range of constituencies now favoring an end to some of the complex problems caused by the Natural Gas Policy Act.

There is growing agreement from many sectors that it is essential for Congress to open up the NGPA and clean up the regulatory mishmash which the 1978 law created.

Industrial users, such as the companies in the Process Gas Con-

sumers Group (PGC), are strongly in favor of Congressional action as soon as possible to deregulate natural gas. The U.S. Chamber of Com-

An impressive array of constituencies favor an end to some of the complex problems caused by the Natural Gas Policy Act.

more, the National Association of Manufacturers, the Chemical Manufacturers Association, the American Textile Manufacturers Insti-

tute, the Business Roundtable, the Petrochemical Energy Group and others representing industrial and business consumers of natural gas have all taken positions favoring decontrol.

In addition, the Natural Gas Supply Association and other producer-oriented interests support deregulation.

A business organization, the Committee for Economic Development, and an environmentalist group, the Conservation Foundation, delivered to Congress a joint report stating that "controlling energy prices has neither increased energy supplies nor made significant contributions to reducing poverty, curbing inflation, or achieving the wide variety of eco-

nomie and social goals that controlled energy prices have been supposed to aid." Keeping energy prices artificially low is a poor way to help low-income consumers and to fight inflation, the report says.

The National Governors' Association is also on record supporting price decontrol for new gas supplies.

The Texas Energy and Natural Resources Advisory Council, which is responsible for assessing that state's energy policy, told a Congressional hearing in August: "It is imperative, in the interest of all, that the Congress move with dispatch to reduce and eliminate the many disorders and uncertainties which make a market which is fair, and fair to all, an impossibility."

The American Farm Bureau says that "ultimately, our whole economy will benefit from total decontrol of natural gas."

PGC members — who require natural gas for uses for which there

price controls on natural gas by a time certain. While we are no more anxious than anyone else to see our gas bills increase, we are willing to pay true free-market prices for gas in anticipation that such prices will be more stable—and perhaps even lower in the long run—than would be the case if Congress fails to take action on the NGPA.

Members of Congress might do well to take another look at these growing constituencies as they make their legislative plans for the new Congress. There appears to be shaping up a broad platform of support for natural gas deregulation, requiring Congressional action early in 1983.

"There appears to be shaping up a broad platform of support for natural gas deregulation, requiring Congressional action early in 1983."

is no alternate fuel—are on record in favor of phasing out all wellhead

(December/January 1983)

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OLD RULES, NOT DEREGULATION, PLAGUE NATURAL GAS

By Steven K. Beckner

It is probably asking too much to expect our legislators to respond to the current distortions in the market for natural gas by hastening and expanding its deregulation. But hopefully they will realize it would be the height of folly to move in the opposite direction, as many would like, and prolong or even increase regulation.

Indications are that Missouri Sens. Thomas Eagleton, a Democrat, and John Danforth, a Republican, once again will launch legislation to regulate natural gas more tightly. If it takes the same shape it did in the lame-duck session, their bill would temporarily freeze wellhead prices of gas, delay scheduled deregulation for two years and render unenforceable contracts between gas producers and gas pipelines where they don't suit the latter.

If such proposals are enacted, the result would be to return this country to the same situation that prevailed in the late 70s, when chronic gas shortages led to passage of the Natural Gas Policy Act of 1978. Once again exploration and production would be discouraged, homes would be left cold and factories would have to shift to dirtier, more expensive coal and oil, much of it from abroad.

The NGPA mandated a partial, phased deregulation of gas. "Old" (pre-1977) gas was left under per-

Hopefully, legislators will realize it is the height of folly to prolong or increase regulation.

petual control, while "new" gas was to be gradually deregulated by 1985. High-cost, "deep" gas, from wells below 15,000 feet, was decontrolled completely.

Within a short time, gas exploration increased and shortages disappeared. But meanwhile, pipeline

companies responded to the immediate shortage and perceived demand by aggressively entering "take-or-pay" contracts with producers at above-average prices that require them to pay whether or not they use the gas.

Then recession hit, and demand for gas fell sharply. Pipeline companies, which have typically committed themselves to buy gas at

government manipulated prices ranging from 29 cents up to \$9 per thousand cubic feet, found themselves locked into take or pay contracts for gas which they cannot sell.

As pipeline companies have passed their higher costs on to

utilities, which in turn have passed them on to consumers, demands have grown for political action—particularly in states like Missouri. But neither a price freeze nor abrogation of contracts is the answer.

On the contrary, the continuation of past regulations is the problem. Were it not for more than two dozen artificial prices for different vintages of "old" and "new" gas there would be only one market price. To the extent that increased producer prices of gas are to blame for higher heating bills, the cause is the NGPA's incentive to produce expensive "deep gas."

In fact, wellhead prices are not chiefly to blame. Nicholas J. Bush, president of the Natural Gas Supply Association, estimates only 39 cents of the 95-cent per million BTU increase in average residential gas prices that occurred over the year ending in July 1982 resulted from

Note: These articles are reprinted as a service to consumers of natural gas. Their content is not necessarily implicitly endorsed by the Natural Gas Consumers Information Center. Selected emphasis has been added.

increased domestic producer revenues. The other 56 cents worth resulted from higher pipeline and distribution costs and the costs of imported natural gas and liquefied natural gas.

It's important to keep things in perspective. Although its price has risen, natural gas is still far cheaper than other fuels. Carl Ericson of the American Gas Asso-

"The continuation of past regulations is the problem. Were it not for more than two dozen artificial prices for different [gas] vintages... there would be only one market price."

ciation, which favors some of the "recontrol" proposals being advanced, notes that while natural gas costs an average \$5 per million

BTU, oil costs \$.90 and electricity \$18-\$19.

The reason we notice gas price increases more is because it is

catching up after nearly three decades of government controls. Even after 1985, nearly half of all natural gas will remain subject to federal price ceilings. The sooner we get rid of all price regulations, the sooner we can move toward a unified market price and stop worrying about constant distortions and disruptions.

(January 6, 1983)

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NATURAL GAS REGULATIONS HELP OPEC KEEP AMERICA HOSTAGE

By G. Henry M. Schuler

There is a special irony in the fact that OPEC was debating reaffirmation of a freeze on international oil prices at artificially high levels at the same time that Congress was debating reimposition of a freeze on domestic natural gas prices at artificially low levels. Although the debates took place in disparate forums, they were inextricably entwined by the fact that **American natural gas is the most attractive alternative to imported oil based on resource potential, established delivery system, environmental acceptability and cost competitiveness.** Moreover, both debates recognized the link between supply and price in the market place, even though OPEC oil producers are anxious to avoid downward market

by perceptions of the outcome of the other. Thus, U.S. proponents of regulated low natural gas prices believe that the "oil glut" will persist, thereby diminishing earlier justification for natural gas initiatives on the grounds of energy supply security. For their part, OPEC proponents of regulated high oil prices believe that the "oil glut" will disappear because of the slowed development of alternatives, marked among other things by the decline in gas exploration wells. It is clear that both perceptions cannot be correct; therefore, since both OPEC and Congress postponed the decisions, we should take advantage of the extra time to reexamine the future of the "oil glut."

In the aftermath of OPEC's

economists argue that a drastic oversupply will produce a collapse of prices by \$6 to \$8 per barrel. Unfortunately for consumers, this stubborn adherence to the conventional Western perception that international oil pricing decisions

The pricing structure will survive intermittent economic challenge because its keystone, the House of Saud, wants to survive persistent political challenge. It is this fundamental political dimension that makes it extremely

"If we focus on the political survival of the House of Saud instead of OPEC's economic survival, we come to the inescapable conclusion that a durable oil glut and price collapse is impossible."

are economically driven and, therefore, must be set either by the forces of competition in a free market or by the principle of collective revenue optimization in a classic cartel misses the mark. In fact, neither of these conventional models describe the world oil pricing structure because the underlying perception is erroneous.

This is not to say that the classic forces of supply and demand are irrelevant. There will, of course, be occasions when individual oil producers engage in price shaving during a slack market just as the past has seen them engage in price gouging during tight markets, but the basic pricing structure will survive without dramatic reductions.

dangerous to predicate production and prices on the basis of either the free market or a classic cartel. Dangerous because both of these models lead to a comforting view of expanding production and declining prices, which saps Free World resolve to reduce its vulnerability to sudden interruptions and price escalations.

If, however, we focus on the political survival of the House of Saud instead of OPEC's economic survival, we come to the inescapable conclusion that a durable oil glut and price collapse is impossible. Being essentially free of population-driven revenue requirements, the rulers of Saudi Arabia have enormous latitude in

"American natural gas is the most attractive alternative to imported oil based on resource potential, established delivery system, environmental acceptability and cost competitiveness."

pressures by restricting supplies, while U.S. natural gas producers are willing to risk similar market pressures by expanding drilling activity and supplies.

Perhaps, most important, both debates were significantly affected

Vienna meeting, American adherents of the perpetual oil glut theory have crowed about OPEC's apparent inability to agree upon market sharing, the prerequisite tool of the classic cartel. Absent such formal agreement, these

...either to maintain market prices by reducing price or to maintain prices by reducing production. It is entirely clear that the producers outside the Arab Peninsula expect the senior leaders who set Saudi policy to choose the latter course. Since these expectations reflect political and ideological hostility as well as economic self-interest, the Saudis must decide whether to risk further stability by exercising their undisputed oil power. In making that decision, astute and cautious leaders will recognize that the kingdom lacks the military strength, diplomatic maneuvering room, national

cohesion and established political legitimacy to challenge rival regional producers. If they do not move to defuse the internal, regional and international pressures, they vastly increase the risk

calculation or precipitously through cataclysm.

Thus, it becomes clear that the proponents of regulating U.S. natural gas prices are working under an erroneous assumption

"...the proponents of regulating U.S. natural gas prices are working under an erroneous assumption that the oil glut will persist..."

of an explosion. In either event, the course for future oil prices is the same, and the only question is whether it proceeds evenly through

that the oil glut will persist. If they persevere in blocking full deregulation or, worse, in re-regulating the limited volumes that are

scheduled for decontrol, they will have fulfilled the OPEC perception that alternatives pose little long-term threat to OPEC oil. Instead of guaranteeing another energy security and price "crunch" in the future, it surely makes better sense to deregulate natural gas and make it clear that the OPEC perception is erroneous.

The writer is director of energy programs for The Center for Strategic and International Studies at Georgetown University.

(December 28, 1982)

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GAS FREEZE: A STEP IN THE WRONG DIRECTION

By Milton R. Copulos

Natural gas is in oversupply and yet prices are rising. This irony is doubly painful with the onset of winter. It is no wonder that Congressmen are feeling pressure from constituents to "do something." As a result, there was a flurry of natural gas legislative activity as the lame duck session entered its second week. The principal initiatives are S. 3069, introduced by Senator Thomas Eagleton (D-Mo.), which would freeze domestic natural gas prices at their August 31, 1982 level; and S. 3076, sponsored by the Northeast/Midwest Coalition, which would abrogate "take or pay" contracts that many gas distribution companies signed in the 1970s. As is so

This is not true. On average, the wellhead price for domestic natural gas accounts for only around 40 percent of the price consumers pay. The remaining 60 percent goes for

sumption which led to higher transportation costs on a per unit basis.

In the early 1970s, when price controls on domestic natural gas

"Quick fix" approaches will not address the causes of the natural gas price run-up. Instead, they will probably mean higher prices for the consumer.

"There is only one way to eliminate the underlying cause of high natural gas prices: decontrol. Approximately 60 percent of domestic natural gas will be decontrolled under existing law in 1985, and the Administration plans to introduce legislation in the new Congress to remove controls from the balance."

Often the case with "quick fixes," neither of these approaches will address the real causes of the price run-up. More important, they will probably mean higher prices for the consumer.

pipeline tariffs and local distribution costs. According to the Department of Energy, wellhead prices for natural gas increased by around 15 percent last year, which would translate into a 6 percent rise at the burner tip. However, the price residential consumers pay went up 22 percent over the same period. What accounts for the other 16 percent? Two factors seem primarily responsible for the rise: 1) the high cost of imported gas, and 2) reduced con-

caused a sharp drop in U.S. reserves, many gas distribution companies entered into long-term contracts with producers in Mexico, Canada, and even Algeria, to assure supplies. The price foreign suppliers could charge was not subject to U.S. controls and was of little concern to the pipelines, as they could pass costs on to the consumer.

In 1981, U.S. gas imports reached 904 Billion Cubic Feet

Rather than some expedient, what is needed is to get rid of the morass of federal controls on natural gas. Administration action is expected in January. "Temporary solutions," such as those offered by Senator Eagleton and the Coalition, only serve to give liberal members an excuse to delay acting on decontrol. Further, both measures proceed from a faulty premise. **The "freeze" and the "take or pay" bills** are based on the assumption that the past year's gas price increase is solely the result of higher domestic wellhead prices.

(Bcf), or nearly 5 percent of total consumption. For the first nine months of 1982, imports totalled 704 Bcf, but were expected to rise sharply in the final quarter. Even though the cost of these imports ranges from \$4.84 per thousand cubic feet (mcf) to \$7.18 per mcf, as compared with an average of \$2.50 per mcf for domestic gas, the long-term contracts firms entered into as a result of price controls prevent them from taking advantage of the newly available, cheaper domestic supplies. In fact, Canadian producers want to lower prices, but are prohibited from doing so by their government. As a result, U.S. consumers paid \$4.2 billion for gas from Canada and Mexico in 1981, and \$204 million for liquefied natural gas from Algeria.

A second major factor is the fact that the reduced volumes flowing through pipelines due to widespread conservation and lower levels of industrial activity mean that fixed capital costs must be spread over a smaller amount of gas. As a result, a higher proportion of capital costs must be assigned to each cubic foot.

Freezing domestic wellhead prices, or invalidating domestic

"take or pay" contracts (which require that pipelines pay for a specified volume of gas whether they use it or not), will do nothing to address either the high cost of imports or higher transportation charges. In fact, the "freeze" proposed would

"Recent experience with oil decontrol teaches that eliminating government interference can lower prices and increase supplies. It is a lesson Congress should apply to natural gas."

actually *raise* prices in the most expensive category: deep gas. Deep gas prices have fallen sharply in recent months, now averaging less than \$6. The freeze, though, would be based on the August 31, 1982, prevailing price, which ranged between \$9 and \$10 per mcf.

The Coalition bill could also result in higher prices in the long run by eliminating a major incentive for producers to enter into the long-term contracts pipelines require. Without the protection "take or pay" contracts afford, producers would have to recoup their investments more rapidly through higher prices. These would be passed on to the consumer.

One "temporary" measure, proposed by Representative Tom Corcoran (R-Ill.), might give consumers some immediate relief. His bill would suspend import licenses for foreign gas in six months, unless prices were renegotiated. At the

end of the six months, if foreign suppliers were unable to agree to a price the Secretary of Energy approved, domestic producers of lower cost gas could replace foreign supplies.

There is only one way to elimi-

nate the underlying cause of high natural gas prices: decontrol. Approximately 60 percent of domestic natural gas will be decontrolled under existing law in 1985, and the Administration plans to introduce legislation in the new Congress to remove controls from the balance. The "temporary" freeze proposals would actually delay decontrol for at least two years, thereby prolonging the existing market imperfections. Recent experience with oil decontrol teaches that eliminating government interference can lower prices and increase supplies. It is a lesson Congress should apply to natural gas.

Mr. Copulos is a policy analyst with the Heritage Foundation.

December 10, 1982

This report is published by the Natural Gas Consumers Information Center, which is supported by industrial, agricultural, and other consumers of natural gas, as well as other parties interested in natural gas and energy. The Center provides information to all consumers on the impact of natural gas regulation.

Address inquiries to:

NGCIC • Suite 900 • 605 Fourteenth Street, NW • Washington, D.C. 20005
Telephone: 202 347-6300

**NATURAL GAS
CONSUMERS INFORMATION
CENTER**

Suite 900
605 Fourteenth Street, NW
Washington, D.C. 20005

Panel leaves old-gas decontrol in bill

Senate energy committee agrees to retain old-gas decontrol in administration's natural gas proposal. Close vote could mean compromise needed. Committee also considers proposal to expand scope of provision requiring contract carriage.

Old-gas decontrol will remain in legislation before the Senate energy committee, at least for the time being.

The panel voted 10-8 last week not to strike old-gas deregulation from the administration's natural gas bill, which it has begun to mark up.

The vote is not binding on future action but helped the committee decide whether to junk the administration bill, of which old-gas decontrol is the keystone.

The committee, at a later date, still will have to vote affirmatively to leave old-gas decontrol in the bill.

The committee launched its rewrite of the Natural Gas Policy Act last week by debating provisions that would make the surplus capacity of interstate pipelines subject to common carrier provisions.

The committee was preparing to vote on a "contract carriage" amendment by Sen. Bill Bradley (D-N.J.) that goes further than the Reagan administration's gas policy bill.

Compromise possible. Sen. James McClure (R-Idaho), committee chairman, beforehand said a close vote could signal the necessity for a compromise on old-gas decontrol.

That was the effect of the 10-8 vote, because two senators—Spark Matsunaga (D-Hawaii) and John Melcher (D-Mont.)—abstained from voting.

That offers the possibility of a tie vote later, and under a committee agreement, a majority vote will be necessary to leave old-gas decontrol in the administration's bill.

Most of the senators seem to agree with Sen. Pete Domenici (R-N.M.), who said "I don't think we can preclude deregulation of old gas from this bill at this point. That doesn't mean we have to vote to deregulate it 3 weeks from now."

Sen. Don Nickles (R-Okla.) agreed. "If we don't have decontrol of old gas we don't have a bill."

But Sen. John Heinz (R-Penn.) said, "We're kidding ourselves if we think decontrol of old gas can get through Congress."

Sen. Wendell Ford (D-Ky.) immediately introduced another amendment to the administration bill calling for exclusion of the section that would remove Natural Gas Policy Act price

controls from all categories of gas.

The National Association of Manufacturers praised the vote. "The committee wisely recognized that the most important element in the whole natural gas problem was the need to deregulate old gas."

Contract carriage. The administration bill would permit contract carriage when a pipeline declined to take part of a producer's gas or did not renew a contract but had excess capacity.

The producer then could contract to sell the gas to a third party, and the pipeline would be required to move the volumes for them. The pipeline would receive a 5¢/MMBTU bonus, plus expenses.

Bradley's amendment would require interstate pipelines, if they have surplus capacity, to move gas for any producer and purchaser. He said the goal was to get as much gas to market at the lowest possible price.

If the pipeline agreed to contract carriage, it could recover costs plus a 5¢/MMBTU fee. But if it protested, the pipeline would have to prove to the Federal Energy Regulatory Commission it did not have the extra capacity.

If FERC determined the capacity existed, the line would be denied the bonus. If FERC determined the pipeline was protecting capacity for existing customers, FERC could allow as much as the 5¢/MMBTU bonus.

Under stiff pressure from other senators, Bradley relaxed a provision that could have required lines to build facilities or add compressors, with reimbursement, to move the contract carriage gas.

The amendment now says FERC "may order a pipeline which does not have available capacity to construct and operate minor facilities necessary for the transportation of natural gas under this section."

The contract carriage parties would have to pay for construction and operation of the facilities. The term "minor facilities" was defined as items such as sales taps that do not involve substantial costs.

Other senators also were concerned contract carriage deals might absorb all existing surplus capacity on interstate lines, leaving them unable to

expand their own volumes when the recession ends or gas demand increases.

Bradley agreed to permit FERC to consider the foreseeable requirements of a pipeline's customers when hearing a contract carriage request.

Pete Domenici sought to expand contract carriage to intrastate pipelines. FERC could order them to carry contract gas if appropriate state agencies declined to consider such requests.

Other senators voiced these concerns about contract carriage: that FERC would be swamped with appeals; that the amendment would circumvent state public utility regulatory commissions; and that pipelines' fixed costs would be spread over a thinner volumetric base.

House hearings. Meanwhile, the House fossil and synthetic fuels subcommittee continued to gather data on gas decontrol options.

Joseph Crosby, Cities Service Co. natural gas sales vice-president, said Congress should not lose sight of the current situation. "The market is in disarray. Supplies are greater than demand, and prices are increasing. Drilling is way off its 1981 peak. The only thing we are assured of with the status quo is a worsening situation."

"Nothing short of comprehensive legislation to achieve a deregulated, free market atmosphere for natural gas will create the appropriate environment for intelligent investment and consumption decisions."

Robert Burke, senior vice-president of Moody's Investors Service, said, "Eventual decontrol of gas prices at the wellhead is a step in the right direction, but it will not alleviate the distortions arising from the filtering of prices through the regulated labyrinth of transmission and distribution companies."

Donald Dufresne, vice-president of Merrill Lynch, said his firm disagrees that the administration bill would cut gas prices below expected NGPA levels but said a decontrolled market wouldn't support higher prices either.

Dufresne said a "windfall profits" tax on old gas "could be a disaster for all segments of the industry, considering that wellhead prices are falling."

Independents, majors clash over old-gas price decontrol

Arguments between independent and major producers sparked a recent House energy subcommittee hearing on natural gas decontrol.

Shell Oil Co. said "forever regulated" old-gas reserves could jump by 52 trillion cu ft if old gas were decontrolled. Old-gas reserves at present are estimated at 115 trillion cu ft.

It also denied major oil companies would glean huge profits from old gas decontrol. It said of each incremental dollar from the sale of gas, 52¢ would go for taxes, 7¢ for royalties, 9¢ to shareholders, and the remaining 33¢ to the firm.

But Robert Hefner III, president and managing partner of GHK Cos., Oklahoma City, said the Reagan administration's old-gas deregulation proposal would enrich majors and impoverish independents.

The House fossil and synthetic fuels subcommittee, chaired by Rep. Phil Sharp (D-Ind.), held the hearing to see how various natural gas pricing bills would affect domestic energy supplies.

Shell responds. Donald Russell, Shell production vice-president, said, "In a desperate attempt to preserve their subsidized price structure, a few individuals (a small minority) have resorted to a demagogic attack on major oil companies.

"They argue that major producers own more old gas than new gas and are therefore seeking to decontrol old gas prices at the expense of new gas prices. This charge is not supported by the facts.

"Of the largest producers, 10 had average gas prices above the national average in 1981, and 10 had average prices below the average. Shell was one of those major producers whose price was above the national average.

"If, as these independents assert, abolition of the multiple vintage price structure will force all prices to the average, those major producers whose prices are already above that level would not benefit."

Shell, a deep-gas producer, said there is a need for deep and other high-cost gas.

Comparison of three gas policies*

Hodel vs. NGPA				Recontrol vs. NGPA				Hodel vs. recontrol			
1985	1990	1995	2000	1985	1990	1995	2000	1985	1990	1995	2000
Domestic production (trillion cu ft/year)											
-0.1	+1.4	+2.0	+2.3	-0.2	-0.6	-0.6	-0.7	+0.1	+2.0	+2.6	+3.0
Cumulative production (trillion cu ft)											
-0.1	+3.2	+12.4	+23.4	0.3	-2.6	-5.5	-8.7	+0.2	+5.8	+17.9	+32.1
Cumulative reserve additions (trillion cu ft)											
-1.6	+43.0	+53.8	+64.5	-2.9	-7.7	-11.0	-14.7	+1.3	+50.8	+64.8	+79.2

*Policies compared are the administration's natural gas bill, written by Energy Sec. Don Hodel (OGJ, Apr. 18, p. 41); the existing Natural Gas Policy Act (NGPA); and a bill extending NGPA controls, which has been introduced in both houses (OGJ, Mar. 14, p. 50).

Source: Shell Oil Co.

"But this gas should be developed at a unit cost that the nation's consumers are prepared to pay. If large enough gas reserves are found, expensive deep gas wells can be just as cheap in terms of the unit cost of gas produced as shallow low-cost wells with small reserves."

Higher output seen. Shell released an engineering study showing old gas decontrol would result in 52 trillion cu ft more old gas production. It said 27 trillion would result from lower levels at which pressures dictate abandonment, 18 trillion from infill drilling, and 7 trillion from well stimulation.

The study examined the remaining gas reserves in the 14 largest producing fields in the Lower 48 and determined the total additional gas reserves that could be produced if price controls were removed. The data then were expanded to all fields in the Lower 48.

The study examined published analog data from Hugoton, Panhandle, San Juan, Jalmat, Puckett, Carthage, Katy, Old Ocean, Gomez, Kettleman Hills, Rio Vista, Bayou Sale, Bastian Bay, and Moccasin-Laverne fields.

Shell said decontrol would result in 1.4 trillion cu ft/year more gas being produced in 1990 over what would be produced under the Natural Gas Policy Act, while legislation to recontrol gas prices would result in 600 billion cu ft/year less (see table).

Other views. Hefner, whose

firm explores for deep gas in the Anadarko basin, called the administration bill "The Oil Company and OPEC Protection Act."

He said the current gas price crisis is ebbing and declared that major oil companies are pushing decontrol of old gas.

"Oil companies benefit in two ways if old gas is decontrolled. First, they stand to earn billions more—\$7 billion/year or from \$200 billion to \$150 billion over the life of the reserves—for the old gas supplies they own.

"Second, with less incentive to discover gas and with higher gas prices to the consumer, these companies benefit from larger oil markets and therefore higher prices for oil."

Edward Erickson, a North Carolina State University economics professor, said, "Price incentives should be in place to find, develop, and produce the least cost gas first. This is not the pattern we have observed under the NGPA.

"If we gerrymander an incentive structure to be other than that which the completely unregulated market would create, I anticipate being back before you in short order to discuss again our dissatisfaction with the resulting distortions" he told the committee.

Patrick Martin, the Louisiana Department of Natural Resources' commissioner of conservation, attacked recontrol bills that would allow pipelines to unilaterally abrogate contract terms and provide a rollback in gas prices.

INITIAL ANALYSIS

HJR-40 - Requesting Congress to decontrol all natural gas

The whereases in this resolution establish that natural gas is the only commodity still subject to price controls, that this causes distortion in gas prices and supplies, and discourages maximum recovery from shallow fields. It further points out that Congressional attempts to adjust gas controls without actually decontrolling all gas could lead to a serious shortage later on, and that phased decontrol would be more equitable, would result in more efficient pricing, and would benefit consumers.

With a final whereas advocating the free market system rather than artificial government price controls, the resolution asks Congress to decontrol all natural gas. Copies will be sent to President Reagan, Vice President Bush, Speaker O'Neill, and the Alaska Delegation.

98TH CONGRESS
1ST SESSION

S. 615

To cover deficiencies in the Natural Gas Policy Act of 1978, to protect natural gas consumers from price increases because of current distortions in the regulated market for natural gas, to provide for a free market for natural gas, to permit natural gas contracts to reflect the change from a regulated to a free market, to eliminate incremental pricing requirements for natural gas, to eliminate certain fuel use restrictions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28 (legislative day, FEBRUARY 23), 1983

Mr. McCURE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To cover deficiencies in the Natural Gas Policy Act of 1978, to protect natural gas consumers from price increases because of current distortions in the regulated market for natural gas, to provide for a free market for natural gas, to permit natural gas contracts to reflect the change from a regulated to a free market, to eliminate incremental pricing requirements for natural gas, to eliminate certain fuel use restrictions, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 *That this Act may be cited as the "Natural Gas Consumer*
- 4 *Regulatory Reform Amendments of 1983".*

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Sec. 502. Conforming amendments.

Sec. 503. Repeal of incremental pricing requirements.

1 TITLE I—PURCHASED GAS COST

2 PURCHASED GAS COST

3 SEC. 101. (a) Title VI of the Natural Gas Policy Act of
4 1978 (15 U.S.C. 3431 et seq.) is amended by adding a new
5 section 603 to read as follows:

6 "SEC. 603. LIMITATION ON THE PASSTHROUGH OF CERTAIN
7 PURCHASED GAS COSTS.

8 "(a) LIMITATION ON PURCHASED GAS ADJUST-
9 MENTS.—Notwithstanding section 601(c) of this Act, for pur-

1 poses of sections 4 and 5 of the Natural Gas Act, from the
2 first day of the first month following enactment of the Natu-
3 ral Gas Consumer Regulatory Reform Amendments of 1983
4 through December 31, 1985, the part of a pipeline's rate that
5 reflects purchased gas costs may not exceed its allowed rate
6 for purchased gas cost, except as provided in subsection (b).

7 “(b) RECOVERY OF ADDITIONAL PURCHASED GAS
8 COST.—A pipeline may file an application under this subsec-
9 tion with the Commission to increase its rates to reflect any
10 purchased gas cost that subsection (a) of this section prevents
11 it from recovering. Notwithstanding section 4(e) of the Natu-
12 ral Gas Act, no increase to the rates of a pipeline that may
13 be recovered under this subsection may go into effect unless
14 the Commission, after opportunity for hearing, issues an
15 order that grants the application, in whole or in part, with
16 such modifications and upon such terms and conditions as the
17 Commission may find necessary and appropriate. The pro-
18 ceeding under this subsection shall be conducted by the Com-
19 mission separately from proceedings on other rate applica-
20 tions that are filed under section 4 of the Natural Gas Act. In
21 any such proceeding, the Commission shall allow recovery if
22 it determines that the costs sought to be recovered were just,
23 reasonable, and prudently incurred. In making this determi-
24 nation, the Commission shall consider the reasonable avail-
25 ability of lower cost supplies to the pipeline and the necessity

1 costs for the pipeline to render adequate service to its
2 customers. Within sixty days of the date of the en-
3 actment of the Natural Gas Consumer Regulatory Reform
4 Amendments of 1983, the Commission shall prescribe rules
5 for applications under this subsection. These rules shall facili-
6 tate expeditious decisions on these applications.

7 "(c) DEFINITIONS.—

8 "(1) ALLOWED RATE FOR PURCHASED GAS.—

9 The term 'allowed rate for purchased gas' means, for a
10 particular pipeline, for a particular month, the pipe-
11 line's average cost per million Btu's for purchased gas
12 delivered to the pipeline during the month preceding
13 the enactment of the Natural Gas Consumer Regula-
14 tory Reform Act of 1983 plus the adjustment amount
15 for that particular month.

16 "(2) ADJUSTMENT AMOUNT.—The term 'adjust-
17 ment amount' means, for a particular month, the differ-
18 ence between the national rate and the adjusted na-
19 tional rate for that particular month.

20 "(3) NATIONAL RATE.—The term 'national rate'
21 means the national average cost per million Btu's for
22 purchased gas delivered to all interstate pipelines
23 during the month preceding the enactment of the Natu-
24 ral Gas Consumer Regulatory Reform Amendments of
25 1983.

1 “(4) ADJUSTED NATIONAL RATE.—The term ‘ad-
2 justed national rate’ means—

3 “(A) for the month in which the Natural Gas
4 Consumer Regulatory Reform Amendments of
5 1983 is enacted, the national rate multiplied by
6 the annual inflation adjustment factor (as defined
7 in section 101(a) of this Act) for that month; and

8 “(B) for any particular succeeding month, the
9 adjusted national rate for the preceding month
10 multiplied by the annual inflation factor (as de-
11 fined in section 101(a) of this Act) for that partic-
12 ular month.

13 “(d) REPORTING REQUIREMENT.—By the fifth day fol-
14 lowing the enactment of the Natural Gas Consumer Regula-
15 tory Reform Amendments of 1983, each interstate pipeline
16 shall report its average cost per million Btu’s for purchased
17 gas delivered to it during the month preceding the enactment
18 of the Natural Gas Consumer Regulatory Reform Amend-
19 ments of 1983 and the volume of purchased gas delivered to
20 it during that month.

21 “(e) PUBLICATION.—The Commission shall compute
22 and publish the adjustment amount for each month at least
23 five days before the beginning of that month.

24 “(f) AFFILIATED PRODUCTION.—No interstate pipeline
25 may recover any costs associated with its own production or

1 purchases from any affiliated producer to the extent such pro-
2 duction or purchases were not reduced to a percentage of
3 deliverability no higher than the percentage of deliverability
4 to which the pipeline had exercised contemporaneously a
5 contractual right to reduce its takes of less expensive gas.”.

6 (b) The table of contents of the Natural Gas Policy Act
7 of 1978 (15 U.S.C. 3301 note) is amended by inserting after
8 the item relating to section 602 the following:

“Sec. 608. Purchased Gas Cost.”

9 TITLE II—REMOVAL OF WELLHEAD PRICE CON-
10 TROLS AND REPEAL OF JURISDICTION OVER
11 CERTAIN FIRST SALES

12 REMOVAL OF WELLHEAD PRICE CONTROLS

13 SEC. 201. Section 121 of the Natural Gas Policy Act of
14 1978 (15 U.S.C. 3391) is amended to read as follows:

15 “SEC. 121. ELIMINATION OF PRICE CONTROLS FOR CERTAIN
16 NATURAL GAS SALES.

17 “(a) GENERAL RULE.—The provisions of subtitle A re-
18 specting the maximum lawful price for any first sale of natu-
19 ral gas shall cease to apply to any first sale of natural gas
20 subject to any contract that was executed or amended after
21 the date of enactment of the Natural Gas Consumer Regula-
22 tory Reform Amendments of 1983, unless the contract spe-
23 cifically provides that the contract shall not operate to termi-
24 nate the application of subtitle A.

1 “(b) HIGH-COST NATURAL GAS.—Except as provided
2 in subsection (a) of this section, with respect to the first sale
3 of high-cost natural gas which is described in section 107(c)
4 (1), (2), (3), or (4)—

5 “(1) beginning on the effective date of the incre-
6 mental pricing rule required under section 201, the
7 provisions of subtitle A respecting the maximum lawful
8 price for the first sale of natural gas shall cease to
9 apply; and

10 “(2) beginning on the date of enactment of the
11 Natural Gas Consumer Regulatory Reform Amend-
12 ments of 1983 through December 31, 1985, the price
13 shall not exceed the higher of the contract price on the
14 date of the enactment of the Natural Gas Consumer
15 Regulatory Reform Amendments of 1983 or the gas
16 cap price, if published, for the month during which the
17 gas is delivered.

18 “(c) SPECIAL RULE FOR CERTAIN GAS.—Except as
19 provided in subsection (a), with respect to the first sale of gas
20 covered by this subsection—

21 “(1) beginning January 1, 1985, the provision of
22 subtitle A respecting the maximum lawful price shall
23 cease to apply; and

1 “(2) beginning January 1, 1985, through Decem-
2 ber 31, 1985, the price shall not exceed the gas cap
3 price for the month during which the gas is delivered.

4 “(3) GAS COVERED BY THIS SUBSECTION.—This
5 subsection applies to—

6 “(A) new natural gas (as defined in section
7 102(c));

8 “(B) natural gas produced from any new, on-
9 shore production well (as defined in section
10 103(c)), if such natural gas—

11 “(i) was not committed or dedicated to
12 interstate commerce on April 20, 1977; and

13 “(ii) is produced from a completion loca-
14 tion which is located at a depth of more than
15 5,000 feet; and

16 “(C) natural gas sold under an existing con-
17 tract, any successor to an existing contract, or
18 any rollover contract, if—

19 “(i) such natural gas was not committed
20 or dedicated to interstate commerce on the
21 day before the date of the enactment of this
22 Act; and

23 “(ii) the price paid for the last deliveries
24 of such natural gas occurring on December
25 31, 1984, or, if no deliveries occurred on

1 such date, the price that would have been
2 paid had deliveries occurred on such date is
3 higher than \$1 per million Btu's.

4 “(d) REMOVAL OF WELLHEAD PRICE CONTROLS ON
5 ALL NATURAL GAS.—Except as provided in subsections (a),
6 (b), or (c), beginning January 1, 1986, the provisions of subti-
7 tle A respecting maximum lawful price shall cease to apply to
8 the first sale of any natural gas.”.

9 REPEAL OF NATURAL GAS ACT JURISDICTION OVER FIRST
10 SALES OF COMMITTED OR DEDICATED NATURAL GAS

11 SEC. 202. Section 601(a)(1)(B) of the Natural Gas
12 Policy Act of 1978 (15 U.S.C. 3431(a)(1)(B)) is amended to
13 read as follows:

14 “(B) COMMITTED OR DEDICATED NATURAL
15 GAS.—Effective on January 1, 1985, for the pur-
16 poses of section 1(b) of the Natural Gas Act, the
17 provisions of such Act and the jurisdiction of the
18 Commission shall not apply solely by reason of
19 any first sale of natural gas which was committed
20 or dedicated to interstate commerce as of the day
21 before the date of enactment of this subsection.
22 Effective on the date of enactment of the Natural
23 Gas Consumer Regulatory Reform Amendments
24 of 1983 through December 31, 1984, for the pur-
25 poses of section 1(b) of the Natural Gas Act, the

1 provisions of such Act and the jurisdiction of the
2 Commission under such Act shall not apply solely
3 by reason of any first sale of natural gas which is
4 committed or dedicated to interstate commerce as
5 of the day before the date of enactment of this
6 Act and which is—

7 “(i) high-cost natural gas (as defined in
8 section 107(c) (1), (2), (3), or (4) of this Act);

9 “(ii) new natural gas (as defined in sec-
10 tion 102(c) of this Act);

11 “(iii) natural gas produced from any
12 new onshore production well (as defined in
13 section 103(c) of this Act);

14 “(iv) natural gas exempted from the op-
15 eration of subtitle A of title I pursuant to
16 section 121(a), or

17 “(v) natural gas that was subject to a
18 contract that expired, lapsed, was terminated
19 pursuant to its own terms, or was terminated
20 pursuant to the provisions of section 316 of
21 this Act.”

1 REPEAL OF PROVISIONS ALLOWING REIMPOSITION OF
2 PRICE CONTROLS AND REPORT TO CONGRESS

3 SEC. 203. (a) Sections 122, 123, and 507 of the Natural
4 Gas Policy Act of 1978 (15 U.S.C. 3332, 3333, and 3417)
5 are repealed.

6 (b) The table of contents of the Natural Gas Policy Act
7 of 1978 (15 U.S.C. 3301 note) is amended by striking the
8 items relating to sections 122, 123, and 507.

9 TITLE III—TRANSITIONAL PRICE AND
10 CONTRACT PROVISIONS

11 LIMITATION ON CEILING PRICES FOR CERTAIN NATURAL
12 GAS

13 SEC. 301. (a) Title I of the Natural Gas Policy Act of
14 1978 (15 U.S.C. 3311-3333) is amended by adding the fol-
15 lowing new section:

16 "SEC 311. LIMITATION ON CEILING PRICES FOR CERTAIN NAT-
17 URAL GAS.

18 "(a) GENERAL RULE.—Except as provided in section
19 121 of this Act, beginning on the date of enactment of this
20 section, the maximum lawful price of any first sale of natural
21 gas subject to this subtitle shall not exceed the lower of the
22 applicable price as calculated pursuant to sections 102
23 through 106, 108, and 109 or the gas cap price, if published,
24 for the month during which the gas is delivered.

1 “(b) SPECIAL RULE FOR SECTION 107(c)(5) GAS.—
2 Except as provided in section 121 of this Act, beginning on
3 the date of the enactment of the Natural Gas Consumer Reg-
4 ulatory Reform Amendments of 1983, the maximum lawful
5 price for gas described in subsection (c)(5) of section 107 of
6 this Act shall be no higher than the maximum lawful price for
7 such gas during the month in which the Natural Gas Con-
8 sumer Regulatory Reform Amendments of 1983 are enacted.

9 “(c) DEFINITION OF GAS CAP PRICE.—The term ‘gas
10 cap price’ means, for a particular month, the volume-weight-
11 ed average price of natural gas that is estimated to be—

12 “(1) delivered during the second, third, and fourth
13 months preceding that particular month; and

14 “(2) delivered during the first three months of de-
15 liveries under a contract filed under subsection (e) of
16 this section.

17 “(d) CALCULATION AND PUBLICATION OF THE GAS
18 CAP PRICE.—Beginning with the fourth month after enact-
19 ment of the Natural Gas Consumer Regulatory Reform
20 Amendments of 1983, the Commission (in accordance with
21 section 101(a)(6) of this subtitle) shall compute and publish
22 the gas cap price for each month through December 1985.

23 “(e) FILING REQUIREMENT.—A purchaser of natural
24 gas subject to a first sale contract executed or amended on or
25 after the date of the enactment of the Natural Gas Consumer

1 Regulatory Reform Amendments of 1983 shall file with the
2 Commission within five days of the date on which the con-
3 tract is executed or amended—

4 “(1) a summary of the contract and all ancillary
5 agreements, including all pricing provisions;

6 “(2) the prices to be paid under the contract
7 during the first three months of deliveries;

8 “(3) the estimated volumes (in millions of Btu's)
9 to be delivered during the first year of the contract;
10 and

11 “(4) any additional data required by the Commis-
12 sion.

13 This filing requirement does not apply in the case of an
14 amendment of a contract for which data previously relating
15 to price has been filed with the Commission under this sub-
16 section.

17 “(f) COMMISSION RULES.—Within thirty days of the
18 enactment of the Natural Gas Consumer Regulatory Reform
19 Amendments of 1983, the Commission shall issue rules to
20 implement this section.”.

21 (b) The table of contents of the Natural Gas Policy Act
22 of 1978 (15 U.S.C. 3301 note) is amended by inserting after
23 the item relating to section 110 the following:

“Sec. 111. Limitation on Ceiling Prices for Certain Natural Gas.”.

24 (c) Section 101(b)(5) of the Natural Gas Policy Act of
25 1978 (15 U.S.C. 3311(b)(5)) is amended by striking the

1 period at the end and inserting the following: “, but in no
2 event shall the operation of this paragraph be deemed to enti-
3 tle any seller to collect a price in excess of that established
4 pursuant to section 111.”.

5 (d) Section 105(b)(3)(B) of the Natural Gas Policy Act of
6 1978 is amended by adding a new sentence at the end to
7 read as follows: “This definition shall not include any clause
8 which establishes the price for natural gas exempted from the
9 operation of this subtitle pursuant to section 121(a).”.

10 REPEAL OF CERTAIN CONTRACT REQUIREMENTS AND

11 IMPOSITION OF TAKE-OR-PAY LIMITS

12 SEC. 302. (a) Section 315 of the Natural Gas Policy
13 Act of 1978 (15 U.S.C. 3375) is repealed, and a new section
14 315 is inserted in its place to read as follows:

15 “SEC. 315. IMPOSITION OF TAKE-OR-PAY LIMITS.

16 “(a) GENERAL RULE.—In the case of any first sale
17 contract in effect on the date of enactment of the Natural Gas
18 Consumer Regulatory Reform Amendments of 1983, which
19 has not been amended subsequent to the date of enactment,
20 and which contains a clause requiring a purchaser to take
21 delivery of, or if not taken, to pay for, volumes of gas in
22 excess of 70 per centum of available deliverability from these--
23 wells included under a contract, the purchaser may exercise
24 without obligation to pay for volumes not taken in excess of
25 70 per centum of well deliverability, a right not to accept

1 delivery of any portion of the total volume which exceeds 30
2 per centum of well deliverability. This right applies only to
3 deliveries under a contract from the date of enactment of the
4 Natural Gas Consumer Regulatory Reform Amendments of
5 1983 through December 31, 1985.

6 “(b) NOTICE REQUIREMENT.—Any purchaser electing
7 to reduce volumes purchased pursuant to this section must
8 give the seller a minimum of thirty days written notice prior
9 to the date of delivery of the natural gas involved.

10 “(c) RELEASE OF CONTRACTUAL OBLIGATIONS.—
11 Upon receipt of the notice provided for in subsection (b), the
12 seller shall have the right to terminate the contract with re-
13 spect only to amounts not taken by reason of this section. If
14 the seller elects to terminate the contract in accordance with
15 this section, the purchaser shall tender to the seller full and
16 unconditional release from all duties and obligations in con-
17 tract or in law. The purchaser, if a transporter of natural gas,
18 shall tender transportation in accordance with the provisions
19 of section 316(d) of this Act.

20 “(d) DRAINAGE SITUATIONS.—The Commission, by
21 rule or order, may determine that this section shall not apply
22 to the extent the production of the volume for which delivery
23 is required to be taken is necessary in order to prevent drain-
24 age and protect the correlative rights of the person producing
25 the natural gas involved.

1 “(1) the party wishing to terminate the contract
2 must give notice to the other party between November
3 16, 1984., and November 15, 1985, and at least forty-
4 five days in advance, that the contract is to be
5 terminated;

6 “(2) the party giving notice of termination does
7 not materially breach the contract at any time prior to
8 the end of the notice period; and

9 “(3) the party giving notice of termination must
10 offer to the other party a full and unconditional release
11 from all future duties and obligations in contract or in
12 law relating to the contract, which release is effective
13 upon termination of the notice period.

14 “(b) EFFECT OF SECTION 315 REDUCTION.—A reduc-
15 tion of a take-or-pay obligation pursuant to section 315 of
16 this Act shall not be considered an amendment for purposes
17 of subsection (a) of this section.

18 “(c) OBLIGATIONS OF PARTIES UPON TERMINA-
19 TION.—Neither party to a contract terminated pursuant to
20 this section shall have an obligation to perform any act be-
21 cause of the contract on and after the effective date of the
22 termination of the contract, except that a party that has re-
23 ceived a good or service under the contract before the effec-
24 tive date of its termination shall have a duty to pay for that
25 good or service as provided for in the contract and that a

1 party that has received payment under the contract for a
2 good or service that was not provided before the effective
3 date of its termination shall have a duty to make restitution
4 of the payment in cash or in kind in accordance with the
5 contract.

6 “(d) TRANSPORTATION OBLIGATION.—

7 “(1) IN GENERAL.—In the event that a contract
8 is terminated under this section, a pipeline that was a
9 party to the terminated contract shall have an obliga-
10 tion to transport natural gas for a producer that was a
11 party to the terminated contract. The obligation of the
12 pipeline shall not exceed on an annual basis the largest
13 volume delivered under the contract during any twelve
14 consecutive months in the thirty-six months prior to its
15 termination.

16 “(2) LIMITATION OF OBLIGATION.—The Com-
17 mission, or in the case of an intrastate pipeline the
18 State agency with jurisdiction over that pipeline, upon
19 application by the pipeline and after opportunity for
20 hearing, may order a limitation of the obligation of the
21 pipeline under this subsection if compliance with the
22 obligation would require construction of additional
23 facilities or would impair the ability of the pipeline to
24 render adequate service to its existing customers.

1 “(3) CONSIDERATION.—The consideration for any
2 transportation provided under this subsection shall be
3 \$0.05 per million Btu’s plus the cost of such transpor-
4 tation, as established by the appropriate State or Fed-
5 eral regulatory body, unless the Commission has estab-
6 lished, by rule, a different rate as just compensation for
7 such transportation. No amount of such consideration
8 shall be required to be credited and flowed back to the
9 customers of such pipeline.”.

10 (b) The table of contents of the Natural Gas Policy Act
11 of 1978 (15 U.S.C. 3301 note) is amended by inserting after
12 the item relating to section 315 the following:

 “Sec. 318. Market-Out Provision.”.

13

EFFECT OF GAS CAP PRICE

14 SEC. 304. (a) Title III of the Natural Gas Policy Act of
15 1978 (15 U.S.C. 3361–3375) is amended by adding a new
16 section 318 to read as follows:

17 “SEC. 318. EFFECT OF GAS CAP PRICE.

18 “(a) Price Escalator Clauses.—Except for natural gas
19 described in section 107 of this Act, no price escalator clause
20 may operate to establish a price for natural gas which is sub-
21 ject to the provisions of subtitle A respecting the maximum
22 lawful price for the first sale of natural gas higher than the
23 gas cap price. For purposes of this subsection, the term
24 “price escalator clause” means any contract clause that pro-
25 vides for a periodic price increase, either on a fixed or indefi-

1 nite basis, or that references other natural gas prices, federal-
2 ly imposed price ceilings, or prices of other commodities.

3 “(b) AREA RATE CLAUSES.—For purposes of an area
4 rate clause, the gas cap is a Federally established rate or
5 price. After December 31, 1985, the gas cap price for De-
6 cember 1985 is a federally established rate or price.”.

7 (b) The table of contents of the Natural Gas Policy Act
8 of 1978 (U.S.C. 3301 note) is amended by inserting after the
9 item relating to section 317 the following:

“Sec. 318. Effect of Gas Cap Price.”.

10 **TITLE IV—REMOVAL OF IMPEDIMENTS TO**
11 **INTERSTATE MOVEMENTS OF GAS**
12 **AUTHORIZATION OF CERTAIN INTERSTATE SALES,**
13 **TRANSPORTATION AND ASSIGNMENTS**

14 **SEC. 401. (a) Section 311(a) of the Natural Gas Policy**
15 **Act of 1978 (15 U.S.C. 3371(a)) is amended by—**

16 (1) amending subparagraph (A) of paragraph (1) to
17 read as follows:

18 “(A) IN GENERAL.—The Commission may,
19 by rule or order, authorize any interstate pipeline
20 to transport natural gas on behalf of any person.”.

21 (2) inserting “AND LOCAL DISTRIBUTION COMPA-
22 NIES” after “INTRASTATE PIPELINES” in the para-
23 graph (2) heading;

24 (3) inserting in paragraph (2) “or local distribution

1 (4) amending subparagraph (A) of paragraph (2) to
2 read as follows:

3 "(A) IN GENERAL.—The Commission may
4 by rule or order, authorize any intrastate pipeline
5 or local distribution company to transport natural
6 gas on behalf of any person."

7 (5) in subparagraph (B)(ii) (I) and (II) of para-
8 graph (2), inserting "or company" after "pipeline".

9 (b) Section 311(b) of the Natural Gas Policy Act of
10 1978 (15 U.S.C. 3371(b)) is amended by—

11 (1) amending paragraph (1) to read as follows:

12 "(1) IN GENERAL.—The Commission may, by
13 rule or order, authorize any pipeline or local distribu-
14 tion company to sell natural gas to any pipeline or
15 local distribution company."

16 (2) amending paragraph (2) by—

17 (A) striking "MAXIMUM FAIR AND EQUITA-
18 BLE PRICE" after the subparagraph designator
19 "A". and inserting in its place "INTRASTATE
20 PIPELINES AND LOCAL DISTRIBUTION COMPA-
21 NIES";

22 (B) inserting "or local distribution company"
23 following "pipeline" and "or local distribution
24 company's" following "pipeline's" wherever they
25 appear; and

1 (C) inserting "(including storage)" after
2 "transportation" in clause (i) of subparagraph (B);

3 (D) adding a new subparagraph (D) to read
4 as follows:

5 "(D) INTERSTATE PIPELINES.—The rates
6 and charges of any interstate pipeline with respect
7 to any sales authorized under subsection (b)(1)(A)
8 shall be just and reasonable (within the meaning
9 of the Natural Gas Act).";

10 (3) in paragraph (4), striking "pipeline's" and in-
11 sserting in its place "seller's", and striking "INTRA-
12 STATE" in the heading and inserting in its place "EX-
13 ISTING";

14 (4) in paragraphs (4)–(7), except for subparagraph
15 (5)(a)(i), striking "intrastate pipeline" or "pipeline"
16 wherever they appear and inserting in their place
17 "seller";

18 (5) in paragraph (5)(A)(i), striking "interstate pipe-
19 line or local distribution" and inserting in its place
20 "purchasing"; and

21 (6) adding a new paragraph (S) to read as follows:

22 "(8) DEFINITION OF SELLER.—For purposes of
23 this subsection, the term 'seller' means any person that
24 sells gas under paragraph (b)(1).".

1 (c) Section 312 of the Natural Gas Policy Act of 1978
2 (15 U.S.C. 3372) is amended—

3 (1) by amending subsection (a) to read as follows:

4 “(a) AUTHORIZATION OF ASSIGNMENTS.—The Com-
5 mission may, by rule or order, authorize a pipeline or local
6 distribution company to assign, without compensation, to any
7 other pipeline or local distribution company, all or any por-
8 tion of the assignor's right to receive surplus natural gas at
9 any first sale, upon such terms and conditions as the Com-
10 mission determines appropriate.”; and

11 (2) by amending subsection (c) to read as follows:

12 “(c) SURPLUS NATURAL GAS.—For purposes of this
13 section, the term ‘surplus natural gas’ means, with respect to
14 any pipeline or local distribution company, any natural gas
15 which exceeds the then current demands of such person for
16 natural gas, as determined by—”

17 “(1) the Commission, or

18 “(2) the State agency having regulatory jurisdic-
19 tion over that person.”.

20 ACCESS TO INTERSTATE SUPPLY SOURCES

21 SEC. 402. (a) Section 314 of the Natural Gas Policy
22 Act of 1978 (15 U.S.C. 3374) is amended by—

23 (1) striking “first” in subsection (a), and

24 (2) amending subsection (b) to read as follows:

1 “(b) NATURAL GAS COVERED BY THIS ACT.—For
2 purposes of subsection (a), the term ‘natural gas covered by
3 this Act’ means—

4 “(1) for any first sale contract, natural gas—

5 “(A) which is not subject to the jurisdiction
6 of the Commission under the Natural Gas Act by
7 reason of section 601(a)(1) (A) or (B);

8 “(B) the sale in interstate commerce of
9 which—

10 “(i) is authorized under section 302(a)
11 or 311(b); or

12 “(ii) is pursuant to an assignment under
13 section 312(a); or

14 “(C) the transportation in interstate com-
15 merce of which is—

16 “(i) pursuant to any order under section
17 302(c) or section 303 (b), (c), (d), or (h), or

18 “(ii) authorized by the Commission
19 under section 311(a); or

20 “(2) for any contract, natural gas the sale or
21 transportation of which under the contract is not in in-
22 terstate commerce by reason of section 601(d) of this
23 Act.”.

1 (b) Section 601 of the Natural Gas Policy Act of 1978
2 (15 U.S.C. 3431) is amended by adding new subsections (d)
3 and (e) to read as follows:

4 "(d) LIMITATION OF COMMISSION JURISDICTION
5 OVER INTRASTATE TRANSACTIONS.—

6 "(1) GENERAL RULE.—No intrastate pipeline or
7 local distribution company shall be subject to the juris-
8 diction of the Commission under the Natural Gas Act
9 by reason of purchasing natural gas in a covered trans-
10 action.

11 "(2) SUBSEQUENT TRANSACTIONS.—Any trans-
12 portation or sale of natural gas purchased in a covered
13 transaction which occurs beyond the point at which
14 such gas is received in the facilities of the purchaser in
15 the covered transaction shall not be in interstate com-
16 merce (within the meaning of the Natural Gas Act)
17 and shall not be subject to the jurisdiction of the Com-
18 mission under the Natural Gas Act to the extent that
19 such gas remains in the State of purchase.

20 "(3) NATURAL-GAS COMPANY.—For purposes of
21 the Natural Gas Act, the term 'natural-gas company'
22 (as defined in section 2(6) of that Act) shall not include
23 any person by reason of, or with respect to, any trans-
24 portation or sale of natural gas if the transportation or

1 sale is not subject to the jurisdiction of the Commission
2 solely by reason of paragraph (2) of this subsection.

3 "(4) STATE OF PURCHASE RULE.—For purposes
4 of this subsection, natural gas shall be deemed to
5 remain in the State of purchase if the gas is not trans-
6 ported outside the State in which it was received into
7 the facilities of the purchaser of the gas in a covered
8 transaction, unless such transportation occurs in con-
9 nection with—

10 "(A) transportation authorized under sections
11 302(a) or 311(a) of this Act, or

12 "(B) a sale or assignment authorized under
13 sections 311(b) or 312 of this Act.

14 "(5) DEFINITION OF COVERED TRANSACTION.—
15 For purposes of this subsection, the term 'covered
16 transaction' means—

17 "(A) a first sale of gas—

18 "(i) which is not subject to the jurisdic-
19 tion of the Commission under the Natural
20 Gas Act by reason of subparagraph (A) or
21 (B) of paragraph (1) of subsection (a),

22 "(ii) which is produced on the Outer
23 Continental Shelf, or

1 “(iii) which is transported pursuant to
2 an order issued under section 317 of this
3 Act;

4 “(B) a sale or assignment authorized under
5 section 302(a), 311(b), or 312(a) of this Act; or

6 “(C) a sale for resale by any person not sub-
7 ject to the jurisdiction of the Commission solely
8 by reason of section 1(c) of the Natural Gas Act.

9 “(e) NONDISCRIMINATION PROVISION.—The Commis-
10 sion may not condition or deny any authorization of the sale
11 or transportation of natural gas under this Act or the Natural
12 Gas Act on the basis of whether the gas is consumed in the
13 interstate market or the intrastate market.”.

14 CONTRACT CARRIER AUTHORIZATION

15 SEC. 403. (a) Title III of the Natural Gas Policy Act of
16 1978 (15 U.S.C. 3361-3375) is amended by adding a new
17 section 317 to read as follows:

18 “SEC. 317. CONTRACT CARRIER AUTHORIZATION.

19 “(a) IN GENERAL.—Upon application by a producer of
20 natural gas or by a purchaser of natural gas from a producer,
21 the Commission shall order any interstate pipeline to carry
22 gas under contract between producer and purchaser upon
23 such terms and subject to such conditions as it considers just
24 and reasonable if the Commission finds that such pipeline has
25 available capacity, that no undue will be place upon such

1 pipeline, that no construction of new facilities would be re-
2 quired, and that such order would not impair the ability of
3 such pipeline to render adequate service to its existing cus-
4 tomers. The Commission may implement this section by rule
5 or order.

6 “(b) CONSIDERATION.—The consideration for any
7 transportation provided under this section shall be \$.05 per
8 million Btu's plus the cost of such transportation, as estab-
9 lished by the Commission, unless the Commission has estab-
10 lished, by rule, a different rate as just compensation for such
11 transportation. No amount of such consideration shall be re-
12 quired to be credited and flowed back to the customers of
13 such pipeline.”

14 (b) The table of contents of the Natural Gas Policy Act
15 of 1978 (15 U.S.C. 3301 note) is amended by inserting after
16 the item relating to section 316 the following:

“Sec. 317. Contract Carrier Authorization.”

17 TITLE V—REPEAL OF CERTAIN RESTRICTIONS
18 ON NATURAL GAS AND PETROLEUM USE
19 AND PRICING

20 REPEAL OF CERTAIN SECTIONS OF THE POWERPLANT AND
21 INDUSTRIAL FUEL USE ACT OF 1978

22 SEC. 501. (a) The following sections of the Powerplant
23 and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et
24 seq.) are repealed:

- 1 (1) section 102 (a)(16), (a)(18), (a)(19), and (a)(29))
2 (42 U.S.C. 8302 (a)(16), (a)(18), (a)(19), and (a)(29));
3 (2) sections 201 and 202 (42 U.S.C. 8311 and 8312);
4 (3) section 302 (42 U.S.C. 8342);
5 (4) section 401 (42 U.S.C. 8371);
6 (5) section 402 (42 U.S.C. 8372); and
7 (6) section 405 (42 U.S.C. 8375).

8 (b) The table of contents in section 101(b) of the Power-
9 plant and Industrial Fuel Use Act of 1978 (42 U.S.C.
10 8301(b)) is amended by striking the items relating to the sec-
11 tions repealed by subsection (a) of this section.

12 CONFORMING AMENDMENTS

13 SEC. 502. (a) Section 102 of the Powerplant and Indus-
14 trial Fuel Use Act of 1978 (42 U.S.C. 8301) is amended by
15 striking "and major fuel-burning installations" and "and
16 new" wherever these phrases appear.

17 (b) Section 103 of the Powerplant and Industrial Fuel
18 Use Act of 1978 (42 U.S.C. 8302) is amended—

19 (1) in subsection (a)(13)(B), by—

20 (A) striking clause (ii)(III);

21 (B) striking "; or" at the end of clause
22 (ii)(II), and inserting a period in its place; and

23 (C) inserting "and" at the end of clause

24 (ii)(I);

1 (2) in subsection (a)(15), by striking "or major
2 fuel-burning installation" and "or new" wherever these
3 phrases appear;

4 (3) in subsection (a)(20), by striking "or major
5 fuel-burning installation";

6 (4) by redesignating subsections (a)(17), (a)(20),
7 (a)(21), (a)(22), (a)(23), (a)(24), (a)(25), (a)(26), (a)(27),
8 and (a)(28) as subsections (a)(16), (a)(17), (a)(18),
9 (a)(19), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), and
10 (a)(25);

11 (5) in subsection (b), by striking "or major fuel-
12 burning installation" wherever this phrase appears;

13 (6) in subsection (b)(1)(D), by striking everything
14 after "synthetic gas involved" and inserting in its place
15 a period; and

16 (7) by striking subsection (b)(3), and redesignating
17 subsection (b)(4) as subsection (b)(3).

18 (c) Section 104 of the Powerplant and Industrial Fuel
19 Use Act of 1978 (42 U.S.C. 8303) is amended to read as
20 follows:

21 "The provisions of this Act shall apply in all the States,
22 Puerto Rico, and the territories and possessions of the United
23 States."

24 (d) Section 302 of the Powerplant and Industrial Fuel
25 Use Act of 1978 (42 U.S.C. 8343) is amended—

1 (1) by striking "or installation" and "or installa-
2 tions" wherever the phrases appear;

3 (2) by striking "or 302" wherever the phrase
4 appears;

5 (3) by striking subsection (a)(3);

6 (4) by amending subsection (b)(1) to read as
7 follows:

8 "(1) The Secretary may prohibit, by rule, the use
9 of natural gas or petroleum under section 301(b) in ex-
10 isting electric powerplants.";

11 (5) in subsection (b)(3), by striking "or major fuel-
12 burning installation"; and

13 (6) by amending the last sentence of subsection
14 (b)(3) to read as follows: "Any such rules shall not
15 apply in the case of any existing electric powerplant
16 with respect to which a comparable prohibition was
17 issued by order."

18 (e) Section 403 of the Powerplant and Industrial Fuel
19 Use Act of 1978 (42 U.S.C. 8373) is amended by striking—

20 (1) in subsection (a)(1), "major fuel-burning instal-
21 lation, or other unit" and the comma immediately pre-
22 ceding this phrase and "installation, or unit" and the
23 comma immediately preceding this phrase;

24 (2) in subsection (a)(2), "installation, or other
25 unit" and the comma immediately preceding that

1 phrase, and "installation, or unit" and the comma im-
2 mediately preceding that phrase;

3 (3) in subsection (a)(2), the last sentence; and

4 (4) subsection (a)(3).

5 (f) Section 404 of the Powerplant and Industrial Fuel
6 Use Act of 1978 (42 U.S.C. 8374) is amended by striking—

7 (1) in subsection (c), "new or" in the phrase "ap-
8 plicable to any new or existing electric powerplant";

9 and

10 (2) subsection (g).

11 (g) Section 701 of the Powerplant and Industrial Fuel
12 Use Act of 1978 (42 U.S.C. 8411) is amended by striking—

13 (1) in the last sentence of subsection (b), "or in-
14 stallation";

15 (2) subsection (c);

16 (3) in the title of subsection (d), "AND EXEMP-
17 TIONS";

18 (4) in the first sentence of subsection (d)(1), "or
19 any petition for any order granting an exemption (or
20 permit)";

21 (5) in subsection (d)(1)(B), "or in the consideration
22 of such petition";

23 (6) in subsection (f), "or a petition for an exemp-
24 tion (or permit) under this Act (other than under sec-
25 tion 402 or 404)," and

1 (7) subsection (g).

2 (h) Section 702 of the Powerplant and Industrial Fuel
3 Use Act of 1978 (42 U.S.C. 8412) is amended by striking—

4 (1) in the title of subsection (a), "OR EXEMP-
5 TION";

6 (2) in subsection (a), "or granting an exemption
7 (or permit)";

8 (3) subsection (b), and redesignating subsection (c)
9 as subsection (b);

10 (4) in the first sentence of subsection (b)(1) (as re-
11 designated), "or by the denial of a petition for an order
12 granting an exemption (or permit) referred to in sub-
13 section (b),";

14 (5) in the first sentence of subsection (b)(1) (as re-
15 designated), "such rule, order, or denial is published
16 under subsection (a) or (b)" and inserting in its place
17 "such rule, or order is published under subsection (a)";

18 (6) in the first sentence of subsection (b)(2) (as re-
19 designated), "the rule, order, or denial" and inserting
20 in its place "the rule or order";

21 (7) in the second sentence of subsection (b)(2) (as
22 redesignated), "(or denial thereof)"; and

23 (8) in subsection (b)(3) (as redesignated), "any
24 such rule, order, or denial" and inserting in its place
25 "any such rule or order".

1 (i) Section 711 of the Powerplant and Industrial Fuel
2 Use Act of 1978 (42 U.S.C. 8421) is amended by striking in
3 the first sentence of subsection (a), "or major fuel-burning
4 installation".

5 (j) Section 721 of the Powerplant and Industrial Fuel
6 Use Act of 1978 (42 U.S.C. 8431) is amended by striking
7 subsection (c) and redesignating subsection (d) as subsection
8 (c).

9 (k) Section 723 of the Powerplant and Industrial Fuel
10 Use Act of 1978 (42 U.S.C. 8433) is amended by striking
11 subsection (b) and redesignating subsections (c) and (d) as
12 subsections (b) and (c).

13 (l) Section 731 of the Powerplant and Industrial Fuel
14 Use Act of 1978 (42 U.S.C. 8441) is amended by striking--

15 (1) "or major fuel-burning installation" wherever
16 the phrase appears; and

17 (2) "title II or" in subsections (a)(1) and (g)(3).

18 (m) Section 745 of the Powerplant and Industrial Fuel
19 Use Act of 1978 (42 U.S.C. 8455) is amended by striking in
20 the first sentence of subsection (a), "from new and existing
21 electric powerplants and major fuel-burning installations"
22 and inserting in its place "from existing electric power-
23 plants".

24 (n) Section 761 of the Powerplant and Industrial Fuel
25 Use Act of 1978 (42 U.S.C. 8471) is amended by striking--

1 (1) in subsection (a), "any existing or new electric
2 powerplant or major fuel-burning installation" and in-
3 serting in its place "any existing electric powerplant";
4 and

5 (2) in subsection (b)—

6 (A) "new or" in the phrase "In the case of
7 any new or existing facility"; and

8 (B) "except to the extent provided under sec-
9 tion 212(b) or section 312(b)" and the comma im-
10 mediately preceding that phrase.

11 REPEAL OF INCREMENTAL PRICING REQUIREMENTS

12 SEC. 503. (a) Subject to subsections (b) and (c) of this
13 section, title II of the Natural Gas Policy Act of 1978 (15
14 U.S.C. 3341-3348) is repealed, and the items relating to
15 title II are stricken from the table of contents of that Act.

16 (b) A rule promulgated by the Commission under title II
17 of the Natural Gas Policy Act of 1978 shall continue in effect
18 only with respect to the flow-through of costs incurred before
19 the enactment of the Natural Gas Consumer Regulatory
20 Reform Amendments of 1983, including any surcharges
21 based on such costs.

22 (c) The Commission may take appropriate action to im-
23 plement this section.