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FEA NATURAL GAS CONTACTS

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TALKING POINTS - NATURAL GAS

Background

Natural gas consumption has grown dramatically since WWII; Natural gas now supplies about 30% of total U. S. energy requirements.

New production is primarily going to the intrastate market because of artificially low regulated (FPC) interstate field price.

Curtailments have risen greatly since 1970:

1970 - 0.1 Tcf (1% of consumption)

1974 - 2.0 Tcf (10% of consumption)

1975 - Numbers not complete. If we hadn't an extremely mild November, they were projected to have been 2.9 Tcf (15% of consumption).

While curtailments are increasing, production is on a steady decline and we are producing more than we are adding to our reserves.

Production - 1973 - 22.6 Tcf

- 1974 - 21.6 Tcf (5% drop)

That 1 Tcf drop is the equivalent of an additional 500,000 barrels of oil per day which would have to be imported to make up for the loss. 1975 preliminary figures show around a 7% decline.

Economic impact depends upon many factors:

alternate fuel capabilities

alternate fuel availabilities

competitiveness

e.g. if a business is curtailed and has no capability of using another fuel, it'll shut down; if it has the capability but cannot secure that alternate fuel, it'll shut down; if it has the capability and can get the alternate fuel, the higher cost of that fuel may make it noncompetitive with someone still using natural gas (which is cheaper than the alternate fuels), and it might shut down.

Economic impact may also be felt in non-curtailed areas.

e.g. Detroit may not be curtailed, but if GM cannot get tires from Ohio or glass from North Carolina, they still will suffer from curtailments.

Possible questions and suggested answers:

1. Why are the curtailments numbers always changing?

Answer. There are two types of curtailments 1) from pipelines to distributors and 2) from distributors to end-users. This summer, according to papers filed with the FPC, interstate pipelines projected nationwide curtailments of 1.3 Tcf to their distributors. Instead of accepting those figures, FEA sent questionnaires to 1700 distributors (almost 100% coverage asking them what their end-users curtailments would be taking into account pipeline deliveries, storage, imports, synthetic gas, etc.

Based on those questionnaires, for 21 critical states (not nationwide), FEA projected 1.16 Tcf of curtailments. When the weather warmed up, FEA did a spot resurvey and reported an improved picture (shows our sincerity and veracity) of 1.03 Tcf.

Thus, there was no playing with numbers: 1.3 Tcf was a nationwide pipeline curtailments figure; 1.16 Tcf a 21-state projection; and 1.03 Tcf an updated 21-state projection.

2. Why aren't producers honoring the agreed-to delivery requirements of their contracts?

Answer. There are two basic types of contracts. The "warranty" contract is a commitment to deliver a certain amount regardless of what field it comes from, economic considerations, etc. These are rare contracts, 6 on file with the FPC out of thousands of contracts altogether.

The overwhelming majority of contracts are "take-or-pay" type. The producer will make up to a certain amount of gas available and the pipeline has to buy all he makes available up to that amount. Delivery is generally tied to a specific reserve - if there was less gas than originally estimated or economic considerations are unfavorable, the producer is allowed to deliver less by the terms of the contract.

Thus, the so-called agreed-to amounts are not binding and usually failure to deliver that amount is not a breach of contract.

3. What about all this shut-in (or capped) reserves (wells)?

Answer. It is true there is gas not being produced. Most of it is so-called "behind the pipe gas." That is gas from different levels on wells already producing. It is economically and physically unfeasible to produce from many levels at the same time. When the presently producing levels are exhausted, these "behind the pipe" levels will be produced. Otherwise, you would jeopardize ultimate recovery.

Another reason is gas which is not close enough to pipelines and economically does not warrant the additional investment to build those pipelines at this time.

There are also wells which need work and are awaiting equipment, or where there is not enough gas left to economically warrant additional investments.

While there have been accusations of conspiratorial holding back, we (FEA) have challenged the accusers to give us the evidence. To date, none has been submitted.

4. Why do we need deregulation?

Answer.

- a. Economic incentive to develop new gas supplies (OCS, Alaska, deeper onshore formations).
- b. Encourages more efficient use of natural gas.
- c. Eliminates price disparity between intrastate and interstate markets.

5. Won't deregulation cause gas bills to quadruple?

(From 52¢/Mcf to \$2.00 or \$2.50)

Answer. Definitely not. Assume, for arguments sake, that the wellhead price of new gas quadrupled. (Don't forget, we're only talking about deregulation of new natural gas). The retail price would only rise slightly for the following reasons:

- a. The wellhead price only makes up about 20% of final price (transportation, markup, etc.).
- b. Since most interstate gas is under long-term (10-20 years) contracts, only about 7% a year would reach the deregulated price. Since old gas averages less than 40¢/Mcf, the average would only go up slightly each year (Theory of "rolled-in" gas price).

6. What is the Administration's position on:

a. Pearson-Bentsen (S. 2310)

b. Krueger

c. Brown

d. Dingell

e. Fraser

Answer.

a. While S. 2310 does deregulate it has a number of objectionable features, which we would hope to work out in conference.

b. Krueger comes the closest to workable legislation and, with minor modifications, would be acceptable.

c. Brown's 7-year bill has many fallbacks. While better than no deregulation, it falls far short of what we need. We understand that Brown himself is supporting Krueger.

d. Dingell is short-term only. Unless we deregulate, we'll continue to have emergencies (Band-aid approach). As a short-term bill, it has many problems.

e. Fraser's totally unacceptable and counterproductive.

7. Why does the government just accept industry reserve figures?

Answer. In October of 1975, FEA submitted an oil and gas reserve study to Congress. In its report concerning natural gas reserves, the FEA pointed out that in 16 states, operator estimates of reserves were higher than those of AGA, and in 9 states the converse was true. The FEA estimated that response to its operator survey for gas covered 95% of the universe based on 1973 production figures.

Because of questions relating to the validity of the reported reserves estimates, the FEA had independent field studies made on a number of the larger fields which were compared to the reserves and production values reported. These data indicate that the producers' estimates are sometimes higher and sometimes lower than those of the AGA's Committee on Natural Gas Reserves. A sample of operator responses was audited to confirm compliance with instructions and cast light on the validity of data submitted. This audit was separate from and in addition to the engineering studies which were made of a sample of 50 fields.

- I. DEFEND RULE'S COMMITTEE RULE
- II. DEFENSE OF "KRUEGER-BROYHILL"
 - 1. 180-day Emergency Sale
 - 2. Boiler Fuel - Short Term
 - 3. Propane
 - 4. Onshore-Deregulation
 - 5. Offshore-Phased Deregulation
 - 6. Boiler Fuel-Long Term
 - 7. Agricultural Priority
- III. ATTACH DINGELL BILL
- IV. AMENDMENTS TO BE OPPOSED
 - 1. Modify "New" Gas Definition
 - 2. Freeze on Flowing Gas
 - 3. Incremental Pricing
 - 4. Divestiture
 - 5. Jurisdiction Over SNG
 - 6. Disposition of Royalty Gas
 - 7. Emergency Purchases in Field By End-User
 - 8. Small Producer Exemptions-Total For "Old" & "New" Gas
 - 9. Ceiling Price on "Onshore" Gas
 - 10. Phase Effective Date of Short-Term and Long-Term Proposals
- V. GENERAL ARGUMENTS AGAINST DEREGULATION
 - 1. Impact on Consumer Too Great
 - 2. Industry Is Not Competitive
 - 3. Supply Is Not Elastic
 - 4. Producers Are Shutting-In Gas Wells
 - 5. Producers are Not Performing Under Contracts



NEW

SOUTH DAKOTA

a1

Charles Grassley

2 53301

~~53301~~

MAINE

VERMONT

David Emery

4

56116 Jones

*Jeffords

5

Bill Cohen

+2

56306

MARYLAND

VIRGINIA

Gilbert Gude

5

55341

Caldwell

*Butler

2

MASSACHUSETTS

Margaret Heckler

2

54335

MICHIGAN

Philip Ruppe

2

54735

NEW JERSEY

Millicent Fenwick

2

57300

NEW YORK

Norman Lent

2

57896

Ham Fish

2

55441

Donald Mitchell

2

53665

OHIO

Charles Whalen

45

56465

William Harsha

4

55705

Ralph Regula

3

53876

PENNSYLVANIA

Richard Schulze

2

55761

Pete Biester

01

54276

Joseph McDade

3

53731

Lawrence Coughlin

3

56111



WHIP ^{POLL} POLE

H.R. 9464, the Natural Gas Emergency bill, is scheduled for consideration next week.

The committee bill is a short-term approach; the rule, however, makes a substitute in order which provides for long-term decontrol of natural gas. Will you support the rule allowing the substitute by voting "Aye" on the previous question

Carol or Ralph -

	145
Hartung	1
Hinsch	1
	<u>143</u>



will you support the rule allowing the substitute
by voting "aye" on the previous question?

Western and Plains (Talcott)

Midwestern States (Myers)

	Yes	No	Und.	N/R
California				
Bell	/			
Burgener	/			
Clausen	/			
Clawson	/			
Goldwater	/			
Hinshaw	/			
Ketchum	/			
Lagomarsino (ARW)	/			
CL McCloskey	/		X	
Moorhead	/			
Rousselot	/			
Talcott	/			
CL Wiggins	/			
Wilson	/			
Pettis	/			
Alaska				
CL Young	?			
Arizona				
Conlan	/			
Rhodes	/			
Steiger	/			
Colorado				
Armstrong (ARW)	/			
Johnson	/			
Idaho				
Hansen	/			
Symms	/			
New Mexico				
Lujan	/			
Washington				
Pritchard	/			
Kansas				
Sebelius	/			
Shriver	/			
Skubitz	/			
Winn	/			
Nebraska				
McCollister	/			
Smith	/			
Thone (ARW)	/			
North Dakota				
VL Andrews	/			
Oklahoma				
Jarman	/			
South Dakota				
Abdnor	/			
VL Pressler	/			
Total	31	0	2	3

	Yes	No	Und.
Indiana			
Hillis	/		
Myers	/		
Iowa			
Grassley	/		
Michigan			
Broomfield	/		
Brown	/		
Cederberg	/		
Esch	/		
Hutchinson	/		
Ruppe	/		
Vander Jagt	/		
Minnesota			
Frenzel (ARW)	/		
Hagedorn	/		
Quie	/		
Wisconsin			
Kasten	/		
Steiger	/		
Ohio			
Ashbrook	/		
Brown	/		
TL Clancy	/		
Devine	/		
Gradison	/		
Guyer	/		
✓ Harsha	/		
Kindness	/		
Latta	/		
Miller	/		
Mosher	/		
TL Regula	/		
Stanton	/		
✓ Whalen	/		
Wylie	/		
Illinois			
Anderson	/		
Crane	/		
Derwinski	/		
Erlenborn	/		
Findley	/		
Hyde	/		
Madigan	/		
McClory	/		
Michel	/		
✓ O'Brien	/		
Railsback	/		
Total	36	3	2

Total pages 1 and 2

148 5 15 13

123



Tally Sheet

94th Con

Border and Southern (Young)					New England and Mid-Atlantic (McDade)			
	Yes	No	Und.	N/R		Yes	No	Und.
<i>a</i> Maryland					Connecticut			
✓ Gude	/				<i>a</i> McKinney	/		
Holt	/				Sarasin	/		
Bauman	/				Delaware			
Missouri	/				<i>a</i> duPont	/		
Taylor (ARW)	/				Maine	/		
Kentucky	/				Cohen	/		
Carter	/				✓ Emery	/		
✓ Snyder	/				Massachusetts	/		
Tennessee	/				✓ Conte (ARW)	/		
<i>✓</i> Beard	/				✓ Heckler	/		
Duncan	/				New Hampshire	/		
Quillen	/				Cleveland	/		
Florida	/				New Jersey	/		
<i>✓</i> Bafalis	/				Fenwick	/		
Burke	/				<i>✓</i> Forsythe	/		
Frey	/				<i>✓</i> Rinaldo <i>leaving no</i>	/		
Kelly	/				Vermont	/		
✓ Young	/				Jeffords	/		
North Carolina	/				New York	/		
Broyhill	/				Conable	/		
<i>✓</i> Martin	/				Fish	/		
South Carolina	/				<i>✓</i> Gilman	/		
<i>✓</i> Spence	/				Hastings	/		
Virginia	/				Horton	/		
<i>a</i> Butler	/				Kemp	/		
Daniel	/				Lent	/		
Robinson	/				McEwen	/		
✓ Wampler <i>probably</i>	/				<i>✓</i> Mitchell (ARW)	/		
Whitehurst (ARW)	/				✓ Peyser	/		
Alabama	/				<i>✓</i> Walsh	/		
Buchanan	/				Wydler	/		
Dickinson	/				Pennsylvania	/		
Edwards	/				<i>a</i> Biester <i>if vote on two</i>	/		
Arkansas	/				Coughlin	/		
Hammerschmidt	/				Eshleman	/		
Louisiana	/				Goodling	/		
Moore	/				<i>a</i> Heinz	/		
Treen	/				Johnson (ARW)	/		
Mississippi	/				McDade	/		
Cochran	/				Myers	/		
Lott	/				Schneebeli	/		
Texas	/				Schulze	/		
Archer	/				Shuster	/		
Collins	/							
Steelman	/							
Total	24	3	4	2	Total	19	-	7

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

OFFICE OF THE ADMINISTRATOR

Honorable Nelson A. Rockefeller
President of the Senate
Washington, D. C. 20510

Dear Mr. President:

Because legislative action on natural gas wellhead price regulation has been far too long deferred, the Nation now faces mounting shortages of natural gas. These shortages substantially increase our dependence upon foreign oil and could jeopardize our continued economic recovery and future economic vitality.

While demand for natural gas has been increasing, production peaked in 1973 and declined by about six percent in 1974 (the equivalent of over 230 million barrels of oil). In 1970, interstate pipelines began curtailments of interruptible customers, reflecting shortages of less than one percent of consumption (0.1 trillion cubic feet). Last year curtailments increased to 2.0 trillion cubic feet (Tcf), or ten percent of consumption. For 1975 they are estimated to increase to 2.9 Tcf, or about 15 percent of consumption.

The shortage is the most severe during the winter months; this winter's curtailments are estimated to be 30 percent more acute than those of last winter, and could be 45 percent worse if the weather is severe. Since natural gas is an essential fuel for a large sector of our industry and supplies almost half of the Nation's nontransportation energy use, shortages of this vital fuel pose a serious threat of significant unemployment, economic disruptions and personal hardships.

The gravity of the natural gas situation clearly requires the most immediate attention of the Congress. The single most important legislative initiative required to alleviate the growing problem is deregulation of the wellhead price of new natural gas. Until this critical issue is forthrightly addressed, the Nation will face an unending succession of future winters with ever mounting shortages.

Deregulation is essential to help assure that the trend towards ever increasing curtailments is reversed. Even with immediate deregulation, however, the shortfall has become so acute that the Nation faces the certainty of serious curtailment for the next two winters. The gravity of the immediate situation requires prompt steps to cushion the impact of shortages during this winter. Accordingly, I am transmitting herewith the Natural Gas Emergency Standby Act of 1975. This legislation, to remain in effect until June 30, 1977, would:

- Provide express authority for the Federal Power Commission to permit interstate pipelines whose high priority consumers are experiencing curtailments to purchase gas at market prices from intrastate sources or from other interstate pipelines on an emergency 180 day basis.
- Explicitly allow high priority consumers of natural gas experiencing curtailments to purchase gas from intrastate sources at market prices and to arrange for its transportation through interstate pipeline systems.
- Extend the recently expired authority to require electric utility and industrial boiler conversions from natural gas or oil to coal, and provide additional standby authority to require conversion from gas to oil where coal conversion is not practicable.
- Provide authority to allocate and establish reasonable prices for propane in order to assure an equitable distribution of propane among historical users and consumers experiencing natural gas curtailments.

Because certain areas of the country, particularly the Mid-Atlantic and Midwestern States, face especially serious potential shortages, I urge prompt Congressional action to enact this legislation. Without such action, we will lack the ability to respond to these serious situations in the timely and effective fashion that their gravity warrants.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

Frank G. Zarb
Administrator

enclosure



Section by Section Analysis
Natural Gas Emergency Standby Act of 1975

Title I

Section 101. Sets forth Congressional findings and purposes applicable to whole Act.

Section 102. Sets expiration date for whole Act of June 30, 1977.

Title II

Section 201. Names Title as the "Interstate Pipeline Emergency Natural Gas Purchases Act of 1975."

Section 202. States the purpose of Title to grant the Federal Power Commission authority to allow interstate pipeline companies with insufficient natural gas for their high priority consumers to acquire natural gas from intra-state sources and other interstate pipeline companies on an emergency basis free from the provisions of the Natural Gas Act.

Section 203. Definitions.

Section 204. Amends section 7(c) of the Natural Gas Act to permit the FPC to exempt from the provisions of the Natural Gas Act the transportation, sale, transfer or exchange of natural gas in connection with emergency acquisitions of natural gas by interstate pipelines.

Exemptions could be granted for transactions between a producer, interstate pipeline company, intrastate pipeline company or gas distributing company, to or with an interstate pipeline company which does not have a sufficient supply of natural gas to fulfill the requirements of its high priority consumers of natural gas, and which is curtailing deliveries pursuant to a curtailment plan on file with the FPC. Exemptions could not exceed 180 days in duration.

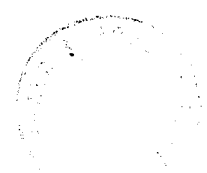
Title III

Section 301. Names Title as the "Curtailed Consumers Emergency Natural Gas Purchases Act of 1975."

Section 302. States the purpose of Title to allow curtailed high priority consumers of natural gas to purchase natural gas from the intrastate market by enabling them to arrange for the transportation of such gas by regulated interstate pipeline companies.

Section 303. Definitions.

Section 304. Subsection (a) amends section 1 of the Natural Gas Act to make clear that FPC jurisdiction shall not extend to transportation by gas distributing companies of natural gas purchased under this Title by curtailed high priority consumers. Subsection (b) amends subsection 7(c) of the Natural Gas Act by providing explicit authority to the FPC to issue a certificate of public convenience and necessity to transport natural gas purchased under this Title, without the need to review and approve the price paid by a high priority consumer directly to the seller.



Title IV

Section 401. Names Title as "Emergency Energy Supply and Environmental Coordination Act Amendments of 1975."

Section 402. States the purpose of Title to continue the conservation of natural gas and petroleum products by fostering the use of coal by powerplants and major fuel burning installations, and if coal cannot be utilized, to provide authority to prohibit the use of natural gas when petroleum products can be substituted.

Section 403. Amends section 2 of the Energy Supply and Environmental Coordination Act of 1974 ("ESECA") to extend FEA's recently expired authority to require conversion to coal by gas and oil burning powerplants and major fuel burning installations, and to add a new authority to require conversion from gas to oil where coal conversion is not feasible and certain other requirements are met, including a certification by the Administrator of the Environmental Protection Agency that the particular powerplant or installation will be able to comply with the Clean Air Act while burning oil. Certain technical amendments of a conforming nature are also made to section 2 of ESECA.

Section 404. Amends section 11(g)(2) of ESECA by extending the expiration of Section 11 from June 30, 1975 to June 30, 1977.

Title V

Section 501. Names Title as the "Propane Standby Allocation Act of 1975."

Section 502. States the purpose of Title to provide standby authority for the President to allocate propane during periods of actual or threatened severe shortages of natural gas.

Section 503. Definitions.

Section 504. Provides standby authority to the President to issue such orders and regulations as may be appropriate in order to provide for systematic allocation and pricing of propane. Prior findings are required that shortages of natural gas exist or are imminent and that such shortages constitute a threat to public health, safety or welfare.

Section 505. Sets forth criminal and civil sanctions for violation of regulations and orders made pursuant to the Title, as well as authority to issue orders to insure compliance and to afford restitution to injured parties.

Section 506. Provides a defense under antitrust or contract law for failures or delays in providing, selling or offering for sale propane if such failures or delays result from compliance with the Title.



Section 507. Prescribes administrative procedures including the manner by which rulemakings are to be initiated. Also, sets forth the requirement for administrative procedures by which any inequities or hardships arising from the administration of the program can be prevented.

Section 508. Provides for judicial review by the federal courts, including the Temporary Emergency Court of Appeals and the Supreme Court, of the provisions of the Title and any rules, regulations or orders issued to carry out the purposes of the Title.

Section 509. Provides injunctive and other remedies for insuring compliance with the Title.

Section 510. Specifies subpoena power and the authority to inspect premises, inventories, documents and other items to carry out the provisions of this Title. It also provides for paying witnesses' fees and mileages and for compelling attendance of witnesses.

Section 511. Establishes a private right of action based on any legal wrong suffered because of acts or practices arising out of this Title.

Section 512. Amends the Federal Energy Administration Act of 1974 to clarify that any regulated pricing of propane may reflect factors other than the cost attributed to its production.

Section 513. Authorizes the President to delegate powers granted by Title to other offices, departments and agencies of the United States.

Section 514. Provides for the relationship of this Title to state and municipal laws, rules, regulations, orders, or ordinances.

Title VI

Section 601. Provides that the termination of the Act or of the authorities granted under the Act does not affect any action or pending proceedings not finally determined on such date, nor any action or proceeding based upon any act committed prior to such date.

Section 602. Preserves the validity of the remainder of the Act and its continuing application if any particular provision or application is held invalid.

A BILL

To provide temporary authority for the President, the Federal Power Commission and the Federal Energy Administration to institute emergency measures to minimize the adverse effects of natural gas shortages; and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled, That this Act may be cited as the "Natural Gas Emergency Standby Act of 1975."

Title I

Section 101. (a) The Congress hereby finds that:

(1) inadequate domestic production of natural gas has resulted in serious natural gas shortages which threaten severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of agricultural production, and curtailment of vital public services;

(2) such shortages constitute a threat to the public health, safety, and welfare and to national defense;

(3) such shortages have created an unreasonable burden on certain areas of the country and on certain sectors of the economy;

(4) such shortages affect interstate and foreign commerce by jeopardizing the normal flow of commerce;

(5) while deregulation of wellhead prices of new natural gas is urgently needed to minimize such shortages in the future, serious shortages during the next two winters cannot be averted; and

(6) the adverse effects of such shortages can be minimized most efficiently and effectively by providing emergency authority to permit prompt further action by the Federal government to supplement existing Federal, State and local government efforts to deal with such shortages.

(b) The purpose of this Act is to authorize the President or his delegate, the Federal Power Commission and the Federal Energy Administration to deal with existing and imminent shortages and dislocations of natural gas in the national distribution system which jeopardize the public health, safety, and welfare; and to provide protection of natural gas service to customers who use natural gas for high priority end uses during periods of curtailed deliveries by natural gas companies. The authority granted under this Act shall be exercised for the purpose of minimizing the adverse impacts of shortages or dislocations on the American people and the domestic economy.

Section 102. This Act shall expire at midnight June 30, 1977.

Title II

Section 201. This Title may be cited as the "Interstate Pipeline Emergency Natural Gas Purchases Act of 1975."

Section 202. The purpose of this Title is to grant the Federal Power Commission authority to allow interstate pipeline companies with insufficient natural gas for their high priority consumers of natural gas to acquire natural gas from intrastate sources and other interstate pipeline companies on an emergency basis free from the provisions of the Natural Gas Act.

Section 203. Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by inserting immediately after subsection (9) thereof the following new subsections:

"(10) 'Gas distributing company' means a person involved in the distribution or transportation of natural gas for ultimate public consumption for domestic, commercial, industrial or any other use but does not include a natural-gas company as defined in subsection (6) of this section.

"(11) 'High priority consumer of natural gas' means a person so defined by the Commission by rules and regulations."

Section 204. Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by designating the two unnumbered paragraphs thereof as paragraphs (1) and (2) and by adding

at the end of paragraph (2) as designated hereby the following:

"Provided further, That within fifteen days after the enactment of this amendment, the Commission may by regulation exempt from the provisions of this Act the transportation, sale, transfer or exchange of natural gas from any source, other than any land or subsurface area within the Outer Continental Shelf as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), by a producer, an interstate pipeline company, an intrastate pipeline company or gas distributing company, to or with an interstate pipeline company which does not have a sufficient supply of natural gas to fulfill the requirements of its high priority consumers of natural gas, and which is curtailing deliveries pursuant to a curtailment plan on file with the Commission. No exemption granted under this proviso shall exceed one hundred and eighty days in duration."

Title III

Section 301. This Title may be cited as the "Curtailed Consumers Emergency Natural Gas Purchases Act of 1975."

Section 302. The purpose of this Title is to allow curtailed high priority consumers of natural gas to purchase natural gas from the intrastate market by enabling them to arrange for the transportation of such gas by regulated interstate pipeline companies.

Section 303. Section 2 of the Natural Gas Act (15 U.S.C. 717a), as amended by section 203 of this Act, is amended further by inserting immediately after subsection (11) thereof, the following new subsection:

"(12) 'Independent producer' means a person, as determined by the Commission, who is engaged in the production of natural gas and who is not (i) an interstate pipeline company or (ii) affiliated with and interstate pipeline company."

Section 304. (a) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended by adding at the end thereof the following new subsection:

"(d) The provisions of this Act shall not apply to the use of the facilities of a gas distributing company for the transportation of natural gas produced by an independent producer from lands, other than any land or subsurface area within the Outer Continental Shelf as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), and sold by such a producer directly to a high priority consumer of natural gas, provided that the rates applicable to the use of such facilities for the transportation of natural gas described in this subsection are subject to regulation by a State commission. The transportation of natural gas exempted from the provisions of this Act by this subsection is hereby declared to be a matter primarily of local concern and subject to regulation by the several States. A certification from such State

commission to the Federal Power Commission that such State commission has regulatory jurisdiction over rates and service of such person and facilities and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction."

(b) Subsection (c) of section 7 of the Natural Gas Act (15 U.S.C. 717f(c)), as amended by section 204 of this Act, is amended further by inserting therein the following new paragraph:

"(3) Pursuant to the substantive and procedural provisions of this section the Commission may in its discretion issue a certificate of public convenience and necessity upon filing of an application by a natural gas company to transport natural gas produced by independent producers from lands, other than any land or subsurface area within the Outer Continental Shelf as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), and sold by such producers directly to existing high priority consumers of natural gas whose current supply of natural gas is curtailed due to natural gas company curtailment plans on file with the Commission. Provided, however, That in issuing a certificate pursuant to this paragraph, the Commission need not review or approve the price paid by a high priority consumer of natural gas directly to an independent producer."

Title IV

Section 401. This Title may be cited as the "Emergency Energy Supply and Environmental Coordination Act Amendments of 1975."

Section 402. The purpose of this Title is to continue the conservation of natural gas and petroleum products by fostering the use of coal by power plants and major fuel burning installations, and if coal cannot be utilized, to provide authority to prohibit the use of natural gas when petroleum products can be substituted.

Section 403. Section 2 of the Energy Supply and Environmental Coordination Act of 1974 is amended by:

(a) Redesignating subsections (e) and (f) as subsections (f) and (g), respectively;

(b) Amending redesignated subsection (g)(1) to read as follows:

"(g)(1) Authority to issue orders or rules under subsections (a), (b), (d), and (e) of this section shall expire at midnight June 30, 1977. Authority to issue orders under subsection (c) shall expire at midnight June 30, 1975. Any rule or order issued under subsections (a) through (e) may take effect at any time before January 1, 1979."

(c) Inserting after subsection (d) the following new subsection (e):

"(e) (1) The Federal Energy Administrator may, by order, prohibit any powerplant or major fuel burning installation from burning natural gas if--

"(A) the Administrator determines that:

"(i) such powerplant or installation had on June 30, 1975 (or at any time thereafter) the capability and necessary plant equipment to burn petroleum products,

"(ii) an order under subsection (a) may not be issued with respect to such powerplant or installation,

"(iii) the burning of petroleum products by such powerplant or installation in lieu of natural gas is practicable,

"(iv) petroleum products will be available during the period the order is in effect,

"(v) with respect to powerplants, the prohibition under this subsection will not impair the reliability of service in the area served by the plant, and

"(B) the Administrator of the Environmental Protection Agency has certified that such powerplant or installation will be able to burn the petroleum products which the Federal Energy Administrator has determined under subparagraph (A) (iv) will be available to it and will be able to comply with the Clean Air Act (including applicable implementation plans).

"(2) An order under this subsection shall not take effect until the earliest date the Administrator of the Environmental Protection Agency has certified that the powerplant or installation can burn petroleum products and can comply with the Clean Air Act (including applicable implementation plans).

"(3) The Federal Energy Administrator may specify in any order issued under this subsection the periods of time during which the order will be in effect and the quantity (or rate of use) of natural gas that may be burned by a powerplant or major fuel burning installation during such periods, including the burning of natural gas by a powerplant to meet peaking load requirements."

Section 404. Section 11 (g) (2) of the Energy Supply and Environmental Coordination Act of 1974 is amended by striking out "June 30, 1975" wherever it appears and inserting in lieu thereof "June 30, 1977."

Title V

Section 501. This Title may be cited as the "Propane Standby Allocation Act of 1975."

Section 502. The purpose of this Title is to provide standby authority for the President to allocate propane during periods of actual or threatened severe shortages of natural gas.

Section 503. For purposes of this Title, the following

~~Terms shall have the following meanings:~~

(a) "Propane" means propane derived from natural gas streams or crude oil, and mixtures containing propane.

(b) "United States" means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

Section 504. Upon finding that shortages of natural gas exist or are imminent and upon finding that such shortages or potential shortages constitute a threat to the public health, safety or welfare, the President is authorized to issue orders and regulations as he deems appropriate to provide, consistent with section 507 of this Title, for the establishment of priorities of use and for systematic allocation and pricing of propane in order to meet the essential needs of various sections of the United States and to lessen anticompetitive effects resulting from shortages of natural gas.

Section 505. (a) Whoever willfully violates any order or regulation under this Title shall be fined not more than \$5,000 for each violation.

(b) Whoever violates any order or regulation under this Title shall be subject to a civil penalty of not more than \$2,500 for each violation.

(c) Any person or agency to whom the President has delegated his authority pursuant to section 513 of this Title may issue such orders and notices as are deemed necessary to insure compliance with any order or regulation issued pursuant to section 504 of this Title, or to remedy the effects of violations of any such orders or regulations.

Section 506. There shall be available as a defense to any action brought under the antitrust laws, or for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange any product covered by this Title that such delay or failure was caused solely by compliance with the provisions of this Title or with any regulations or any orders issued pursuant to this Title.

Section 507. (a) Subject to subsections (b), (c), and (d) of this section, which shall apply to any rule or regulation, or any order having the applicability and effect of a rule as defined in section 551 (4) of Title 5, United States Code, and issued pursuant to this Title the functions exercised under this Title are excluded from the operation of Subchapter II of Chapter 5, and Chapter 7 of Title 5, United States Code, except as to the requirements of sections 552, 553, and 555(e) of Title 5, United States Code.

(b) Notice of any proposed rule, regulation, or order described in subsection (a) shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out

in detail in such rule, regulation, or order.

(c) In addition to the requirements of subsection (b), if any rule, regulation, or order described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than forty-five days after the issuance of any such rule, regulation, or order. A transcript shall be kept of any oral presentation.

(d) The President or any officer or agency authorized to issue the rules, regulations, or orders described in subsection (a) shall provide for the making of such adjustments, consistent with the other purposes of this Title, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceeding sentence, he may request a review of such denial by the President or the officer or agency to whom he has delegated his authority pursuant to section 513 of this Title and may obtain judicial review in

accordance with section 508 of this Title when such denial becomes final. The President or the officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

Section 508. (a) The district courts of the United States shall have exclusive original jurisdiction of cases or controversies arising under this Title or under regulations or orders issued thereunder, notwithstanding the amount in controversy; except that nothing in this subsection or in subsection (h) of this section affects the power of any court of competent jurisdiction to consider, hear, and determine any issue by way of defense (other than a defense based on the constitutionality of this Title or the validity of action taken by any agency under this Title) raised in any proceeding before such court. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Title or the validity of actions under this Title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of Chapter 89 of Title 28, United States Code.

(b) Except as otherwise provided in this section, exclusive appellate jurisdiction is vested in the Temporary Emergency Court of Appeals, a court which is currently in existence, but which is independently authorized by this

section. The court, a court of the United States, shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of the United States district courts and circuit courts of appeals. The Chief Justice of the United States shall designate one of such judges as chief judge of the Temporary Emergency Court of Appeals, and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court. Except as provided in subsection (e) (2) of this section, the court shall not have power to issue any interlocutory decree staying or restraining in whole or in part any provision of this Title, or the effectiveness of any regulation or order issued thereunder. In all other respects, the court shall have the powers of a circuit court of appeals with respect to the jurisdiction conferred on it by this Title. The court shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases over which it has jurisdiction under this Title. The court shall have a seal, hold sessions at such places as it may specify, and appoint a clerk and such other employees as it deems necessary or proper.

(c) Appeals from the district courts of the United States in cases and controversies arising under regulations or orders issued under this Title shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days of the entry of judgment by the district court.

(d) In any action commenced under this Title in any district court of the United States in which the court determines that a substantial constitutional issue exists, the court shall certify such issue to the Temporary Emergency Court of Appeals. Upon such certification, the Temporary Emergency Court of Appeals shall determine the appropriate manner of disposition which may include a determination that the entire action be sent to it for consideration or it may, on the issues certified, give binding instructions and remand the action to the certifying court for further disposition.

(e)(1) Subject to paragraph (2) no regulation of any agency exercising authority under this Title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such regulation was in excess of the agency's authority, was arbitrary or capricious, or was otherwise unlawful under the criteria set forth in section 706(2) of Title 5, United States Code, and no order of such agency shall be enjoined or set aside, in whole or in part, unless a final judgment determines that

such order is in excess of the agency's authority, or is based upon findings which are not supported by substantial evidence.

(2) A district court of the United States or the Temporary Emergency Court of Appeals may enjoin temporarily or permanently the application of a particular regulation or order issued under this Title to a person who is a party to litigation before it. Except as provided in this subsection, no interlocutory or permanent injunction restraining the enforcement, operation or execution of this Title, or any regulation or order issued thereunder, shall be granted by any district court of the United States or judge thereof. Any such court shall have jurisdiction to declare (i) that a regulation of an agency exercising authority under this Title is in excess of the agency's authority, is arbitrary or capricious, or is otherwise unlawful under the criteria set forth in section 706(2) of Title 5, United States Code, or (ii) that an order or such agency is invalid upon a determination that the order is in excess of the agency's authority, or is based upon findings which are not supported by substantial evidence. Appeals from interlocutory decisions by a district court of the United States under this paragraph may be taken in accordance with the provisions of section 1292 of Title 28, United States Code; except that reference in such section to

the courts of appeals shall be deemed to refer to the Temporary Emergency Court of Appeals.

(f) The effectiveness of a final judgment of the Temporary Emergency Court of Appeals enjoining or setting aside in whole or in part any provision of this Title, or any regulation or order issued thereunder shall be postponed until the expiration of time for filing a writ of certiorari with the Supreme Court under subsection (g). If such petition is filed, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

(g) Within thirty days after entry of any judgment or order by the Temporary Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of Title 28, United States Code. The Temporary Emergency Court of Appeals, and the Supreme Court upon review of judgments and orders of the Temporary Emergency Court of Appeals, shall have exclusive jurisdiction to determine the constitutional validity of any provision of this Title or of

any regulation or order issued under this Title. Except as provided in this section, no court, Federal or State, shall have jurisdiction or power to consider the constitutional validity of any provision of this Title or of any such regulation or order, or to stay, restrain, enjoin, or set aside, in whole or in part, any provision of this Title authorizing the issuance of such regulations or orders, or any provision of any such regulation or order, or to restrain or enjoin the enforcement of any such provision.

Section 509. Whenever it appears to any person or agency authorized by the President pursuant to section 513 of this Title that any individual or organization has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any order or regulation under this Title, such person or agency may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any such order or regulation. In addition to such injunctive relief, the court may also order restitution of moneys received in violation of any such order or regulation.

Section 510. (a) An agency or person exercising authority pursuant to section 513 of this Title shall have authority,

for any purpose related to this Title, to sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths.

(b) Upon presenting appropriate credentials and a written notice to the owner, operator, or agency in charge, any agency or person exercising authority pursuant to section 513 of this Title may enter, at reasonable times, any business premise or facility and inspect, at reasonable times and in a reasonable manner, any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents, in order to obtain information as necessary or appropriate for the proper exercise of functions under this Title and to verify the accuracy of any such information.

(c) Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpoena served upon any person under the provisions of this section, the agency or person authorizing such subpoena may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents before the agency or person.

Section 511. Any person suffering legal wrong because of any act or practice arising out of this Title, or any order or regulation issued pursuant thereto, may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment, writ of injunction (subject to the limitations in Section 508 of this Title), and/or damages.

Section 512. Section 5 of the Federal Energy Administration Act of 1974 (15 U.S.C. 761) is amended in subsection (b) by adding the word "and" after the semicolon in paragraph 10; by deleting paragraph 11; and by redesignating paragraph 12 as paragraph 11.

Section 513. The President may delegate the performance of any function under this Title to such offices, departments, and agencies of the United States as he deems appropriate.

Section 514. (a) No law, rule, regulation, order or ordinance of any State or municipality in effect on the date of enactment of this Title, or which may become effective thereafter, shall be superseded by any provision of this Title or any rule, regulation or order issued pursuant to this Title except insofar as such law, rule, regulation, order or ordinance is inconsistent with the provisions of this Title or any rule, regulation or order issued thereunder.

Title VI

Section 601. Termination of this Act or the authorities granted under this Act shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to such date.

Section 602. If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

FEDERAL PREPAREDNESS TO DEAL WITH
THE NATURAL GAS SHORTAGE EMER-
GENCY THIS COMING WINTER

THIRD REPORT

BY THE

COMMITTEE ON GOVERNMENT
OPERATIONS

TOGETHER WITH

ADDITIONAL VIEWS



JULY 25, 1975.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

57-006 O

WASHINGTON : 1975

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(II)

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 25, 1975.

HON. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: By direction of the Committee on Government Operations, I submit herewith the committee's third report to the 94th Congress. The committee's report is based on a study made by its Conservation, Energy, and Natural Resources Subcommittee.

JACK BROOKS, *Chairman.*

(III)

PREFACE

THEN—

"In area after area we encounter soaring demands, shrinking resources, the constant pressure toward rising real costs, the strong possibility of an arrest or decline in the standard of living we cherish and hope to share. As a Nation, we are threatened but not alert. * * *"

—Paley Commission Report, June 1952.

NOW—

"It is essential * * * to plan now for the transition from oil and gas to new sources to supply the next energy cycle. The Nation cannot afford to wait another 60 years to complete the next transition. Only an aggressive program of technological development can expedite this process. It is urgent to begin now."

—ERDA : Creating Energy Choices for the Future, June 1975.

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FEDERAL PREPAREDNESS TO DEAL WITH THE NATURAL GAS SHORTAGE EMERGENCY THIS COMING WINTER

JULY 25, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on Government Operations, submitted the following

THIRD REPORT

together with

ADDITIONAL VIEWS

BASED ON A STUDY BY THE CONSERVATION, ENERGY, AND NATURAL RESOURCES SUBCOMMITTEE

On July 22, 1975, the Committee on Government Operations approved and adopted a report entitled "Federal Preparedness To Deal With the Natural Gas Shortage Emergency This Coming Winter." The chairman was directed to transmit a copy to the Speaker of the House.

I. INTRODUCTION

Meeting the Nation's energy needs arrived as a major political issue late in 1973. It was climaxed by enactment of the Federal Energy Administration Act of 1974 (Public Law 93-275), establishing a focal point for energy policy and administration within the executive branch of the Federal Government. The action of the 93d Congress constituted a clear departure from the past in that the legislation recognized the value of stimulating a unified national effort to meet the energy problem head-on. The new law's provisions were broad and ranged into fields where Government-based energy activity had not previously ventured, including the development of near-term energy policy, the collection of data related to energy use and development, and, most significantly, the evaluation of the economic impacts of various energy programs.

This report represents the assessment of the House Committee on Government Operations which, through its Conservation, Energy, and Natural Resources Subcommittee, has devoted top priority attention to surveying a fundamental part of the energy situation; namely,

natural gas supply and distribution, and particularly the state of Federal preparedness to deal with the natural gas shortage emergency this coming winter (1975-76). This effort has been undertaken against first, the backdrop of experience stemming from enactment and implementation of the Federal Energy Administration Act—intended to be an important new step in the direction of bringing governmental order to a near-chaotic field of energy policy—and second, the present crisis condition regarding the supply of natural gas. The report reviews the administrative history of the Federal Government as it has sought to cope with this problem and makes special note of those opportunities the committee feels exist to meet and overcome what has been described by some National and State leaders as a critical natural gas shortage and budding National economic disaster. This committee concurs with that view.

The Conservation, Energy, and Natural Resources Subcommittee was established on February 4, 1975, in a reorganization by its parent committee, the House Committee on Government Operations. At that time, various issues dealing with natural resource operations and administration were before the committee, and the subcommittee chairman initiated an investigation to explore from these viewpoints the natural gas shortage problem in all its ramifications—sources, nature, effects, and control—to determine the most beneficial remedies—administrative and legislative.

The committee, through its subcommittee, held hearings on June 12 and 26, 1975, conducted studies and numerous interviews, and has acquired a fund of information sufficient to enable its members to recognize and become gravely concerned over an impending natural gas shortage emergency in key industrial States. In addition, the subcommittee has identified the need for administrative action and legislation that would possibly be much more responsive to the problem. As a first factfinding effort, the subcommittee prepared this report on the problem of the natural gas shortage, its causes and potential effects, and the specific areas which seem most urgently to demand attention.

There is a persistent theme which runs throughout the testimony and advice from virtually all executive branch witnesses and the natural gas industry. It is simply this: Congress must deregulate the price of new natural gas at the wellhead, which will inevitably increase the cost of natural gas to the consumer, if it expects the industry to seek fresh supplies which would help to alleviate such shortages. In essence, they are saying that consumers—industrial, commercial, and residential—must “bite the bullet” financially and pay the added costs to give producers enough profit incentives to look for and develop new gas supplies. It would be up to Congress to set such machinery in motion.

Secretary of Commerce Morton echoed the administration's support of deregulation in a written statement submitted to the Conservation, Energy, and Natural Resources Subcommittee June 26, 1975.

“However,” he said, “we must recognize that deregulation of new gas is not a solution which will solve the problem in the very near term—specifically this coming winter.”

The committee is aware there is also strong support for continued regulation of the price of natural gas. Those reflecting this viewpoint maintain that concentration of economic power within the industry may eliminate the factors which ordinarily operate in a free market

place, thereby preventing deregulation from achieving the goal of greater supply and resulting simply in a windfall for the producers and a disaster for the consumer. It is argued that rational regulation, or some other alternative, may be the more appropriate solution to balance the various competing interests.

Regardless of the ultimate outcome of this debate, the committee agrees that deregulation is not at issue in regard to this winter's natural gas shortage and thus it does not deal with that subject in this report. Nevertheless, it is a question that will have to be faced by the Congress in some form with relation to almost certain future shortages looming in the winters to come following the one of 1975-76.

This report attempts to document the scope and seriousness of the national shortage emergency. The committee notes that many of the figures used in this report were supplied by the natural gas industry. It should not be concluded that the committee accepts without question the accuracy of these figures, but has used them as they are presently the only readily available source of such information. The committee is highly aware of the need for more reliable and objective data in this sensitive area. The findings and recommendations contained in this report must be considered in the light of the possibly imperfect statistical data upon which we are forced to rely.

Nevertheless, the report is intended to make clear that immediate administrative action is needed to improve the state of Federal preparedness to cope with such an emergency. The President should be prepared to invoke emergency legal authorities to alleviate hardship and prevent any possible relapse in national economic recovery. Prompt consideration of new remedial legislation covering such emergencies also is highly desirable.

II. THE NATURAL GAS SHORTAGE

There can be no denial of the fact that natural gas is critical to the well-being of the American economy. Gas is consumed by nearly 160 million Americans and contributes approximately 40 percent of the total energy produced domestically. To industry, it is a cornerstone of production since more than one-half of all manufacturing depends upon natural gas in its operation. These figures underscore the sense of urgency pressed upon the Congress by gas industry spokesmen to adopt new policies intended to stimulate gas exploration and development of additional supplies. Industry spokesmen report that exploratory drilling for natural gas dropped by more than 50 percent between 1956 and 1970. Over the same period, proved reserves dropped from 23 times annual production to 10 times annual production. The figures point out the dilemma of the industry—decreasing production, increased consumption, and low prices. Gas at the wellhead has been regulated almost from the beginning of its appearance in the energy system. Low prices have been identified with its use since its introduction and have been influences felt throughout other aspects of the energy industry; namely, coal and oil. In the latter instances, both sources have had to respond with equally low figures of cost in order to remain reasonably competitive with gas. This system prevailed until recent times when the now worsening shortage of natural gas first began to appear and a chorus of opinion supporting and opposing its deregulation began to form. Simply stated, the proponents of deregulation argue that removal of controls over prices will stimulate production, which in turn will increase productive effort on behalf of the other two basic forms of fossil fuel—coal and oil.

The problem is compounded by a number of related conditions. First, there is little question that even an all-out effort to expand gas production to plentiful supply would require a "finding rate" that defies reasonable description. Some experts, close to the system, have estimated it would require a discovery rate which is 250 percent greater than the average finding rate for the 5-year period of 1968-72.¹ Second, the industry is pessimistic about the prospects for alleviation of the supply problem in the short term. Given a certain degree of successful discovery of new sources, the time needed to bring the gas to production and distribution ranges from 3 to 5 years. Third, the capital requirements for such an effort are awesome and would occur at a time when capital is in short supply, and if available, only so at extraordinarily high cost to the borrower. In essence, the problems of the gas industry today revolve around the possibility of mixing a proper amount of money with management willing to take risks and sprinkling both quite liberally with luck.

¹ Natural Gas Supply Committee, "The Role of Natural Gas in United States Energy Policy," Washington, D.C., (1975), pp. 12-13.

In the meantime, it seems certain that Americans will continue to endure the shortage of supply, first acknowledged in November 1970 with the advent of curtailments. Since then, curtailments of firm service—that which is contracted for without interruption—have risen until this year, 1975-76, when the total is estimated to be closing in on 10 percent of total domestic production. Projected curtailments published by the Federal Power Commission, June 6, 1975, suggest that curtailments for 1975-76 would exceed actual curtailments of firm service for 1974-75 by 45 percent.

Testifying before the Conservation, Energy, and Natural Resources Subcommittee on June 12, 1975, FPC Chairman John N. Nassikas noted that as ominous as these aggregate figures were, they did not portray—

*** the near catastrophic conditions prevailing on some of the individual major long-haul interstate pipelines.

Trunkline Gas Co. which serves the Midwest region of the country indirectly through deliveries to Panhandle Eastern Pipeline Co., projects curtailments of firm service for the year April 1975-March 1976 representing over 46 percent of its system requirements. Likewise, United Gas Pipeline Co. which directly serves a large portion of the southeast United States and serves five other interstate pipelines which market natural gas east of the Mississippi River, projects curtailments of firm service approaching fully 48 percent of its system requirements. Transcontinental Gas Pipe Line Corp., which serves the east south-central region and the east coast as far north as Pennsylvania, projects curtailments of firm service amounting to over 40 percent of requirements.²

In all, 12 companies project curtailments of firm service of over 100 billion cubic feet each for the 1975-76 year. These same 12 companies account for nearly two-thirds of the firm contract requirements of the interstate pipelines and constitute 91 percent of the total projected natural gas deficiency for the reporting pipeline group. Actual curtailed deliveries of firm contract quantities of natural gas by interstate pipeline companies for the years 1971-74 are as follows:

Year:	Volume (billions of cubic feet)
1971	286
1972	649
1973	1,131
1974	1,679

Grim as the 1975-76 projections may appear to be, there is no more devastating reminder of their ultimate effect than that chronicled for the subcommittee by Mr. James W. Lord, city manager of Danville, Va. In a letter to subcommittee chairman William S. Moorhead of Pennsylvania dated June 20, 1975, Mr. Lord described the plight of his city of 47,000 people, noting that due to Danville's location along the Transcontinental Pipe Line system, the city anticipates a curtailment

² Trunkline services Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Tennessee, and Texas. United is authorized to serve Alabama, Florida, Louisiana, Mississippi, and Texas. Transcontinental serves Alabama, Georgia, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Texas, and Virginia.

of 67.52 percent. In stark terms, Danville will not have any natural gas available for its four main industries, all of which require natural gas to operate for their processes,³ and thus faces the distinct possibility that these companies may be forced to close down during the 1975-76 season. The four industries employ 9,450 people—one out of every five residents of the city—or about 70 percent of the city's households. The rippling effect on other service-based employment within the city's economic system is evident; an additional 20,000 people might be forced from their jobs with attendant catastrophic effect.

In general, the shortfall of natural gas is felt most by the utility and industrial elements of the Nation's economic family because of the priority system now in effect. These two user groups account for more than 60 percent of the total gas consumed in the United States. Homeowners and commercial users, which have higher priority, require in excess of 35 percent, and while no curtailments have been passed on directly to the home resident, the prospect becomes very real for 1975-76 as documented by Secretary of Commerce Rogers C. B. Morton in public speeches and a written statement submitted to the subcommittee on June 26, 1975. At that time, Secretary Morton, who also functions as chairman of the President's Energy Resources Council, expressed the concern that the problem could, if not checked, "* * * preclude our continued recovery from the economic recession we have been experiencing in recent months and cause a significant downturn in our future living standards." Secretary Morton noted, however, that "* * * human needs must receive priority consideration. It is only logical though to conclude that nobody wants to sit in a warm house but be out of work—and this is precisely what could happen in the face of today's situation."

FUEL ALTERNATIVES AND POLICY OPTIONS

The general view held by gas industry representatives is that the current shortage, due to be aggravated substantially with the advent of the coming heating season, can only lead to increased unemployment, industrial dislocation, higher prices for other fuels, diminished supplies of gas for related uses, such as fertilizer production, and general economic malaise.⁴ Indeed, the words of Secretary Morton noted assume even larger importance with each passing day as the season approaches and suggest that alternative sources of fuel, where possible to undertake such shifts, may be of great significance to the national economic well-being. A brief review of general availability of alternative fuel sources does not, however, produce any feeling of euphoria.

The most approximate substitutes are propane and butane, but each has dedicated use patterns closely associated with agricultural needs. Crop drying requirements cannot be shunted aside if the Nation's food needs are to be met. Moreover, the petrochemical industry also draws heavily upon these fuels for use in manufacturing processes. Agricultural and petrochemical uses of propane and butane consume almost

³ The industries are Dan River Mills, Corning Glass, U.S. Gypsum, and Goodyear Tire and Rubber Co.

⁴ "The Role of Natural Gas in U.S. Energy Policy," Natural Gas Supply Committee, Washington, D.C., Feb. 1975, cf.

all of those fuels which are being produced. About 70 percent of the source of propane and butane is natural gas, and shortage of the latter merely aggravates the situation since the substitutes would thus also be in short supply.⁵

A second alternative fuel recommended for consideration is LNG (liquefied natural gas). At present, about 4 billion cubic feet of LNG are imported, but due to the international energy situation and the higher cost for LNG (in excess of 200 to 300 percent higher cost) than for domestic interstate gas, LNG is not considered an economically feasible substitute even if foreign sources were dependable and they are not.

Much the same argument weighs against reliance upon fuel oil in view of its importation and the constant veiled threat of embargoed supply from foreign sources. Proponents of deregulation also correctly point out that importation contradicts the Nation's quest for energy self-sufficiency by increasing dependence upon foreign sources.

Beyond fuel oil, the user can turn to SNG (substitute or synthetic natural gas) derived from coal of liquid hydrocarbons. Coal processes may be accelerated from developmental stages to production as a result of the strong emphasis being placed upon this alternative by the Energy Research and Development Administration and the availability of extensive domestic coal reserves, but it is still several years from full realization. SNG from liquid hydrocarbons is still considered to be far too costly for commercial energy needs; in addition, it is dependent upon foreign sources.

In sum, industry ability to shift from natural gas dependency to alternative fuels appears to be limited. The presence of standby equipment needed to move from gas to oil or coal is a critical factor in management's decisionmaking process, for while some of the heavier users of gas may have taken steps during the earlier days of curtailment of gas supply to install such equipment, many reportedly have not done so. The net effect can be drawn from the Department of Commerce observation that of the 25 largest gas-using industries (excluding utilities)—those accounting for nearly 70 percent of the total industrial use of gas—only two have equipment permitting a quick adjustment to other sources of fuel.⁶

Assuming the accuracy of these statements, the plight of American industry cannot be understated. The problem is magnified if it is also true that the bulk of the affected industries are labor intensive since massive unemployment caused by shutdowns or reduced workloads can be expected to follow any such decision to cease or limit operations.⁷

SELECTIVE STATE AND LOCAL EXPERIENCES

Any overview of the impending crisis descending upon the natural gas user groups should consider the potential impact of the shortage upon certain key industrial areas. In this respect, an examination of the industrial areas incorporated by Pennsylvania, North Carolina,

⁵ Ibid., pp. 14-15.

⁶ "Impact of Prospective Natural Gas Curtailments on U.S. Industry," Bureau of Domestic Commerce, Department of Commerce, September 1974, p. 2.

⁷ Major industries known to have substantial need of natural gas for continued unbroken operation include glass, primary aluminum, automotive parts, hydraulic cement, and lime.

New York, Ohio, Kentucky, New Jersey, and West Virginia will serve to illustrate the potential impact of the shortage.

Pennsylvania.—Based upon studies prepared for it by the University Science Center of Philadelphia, the Governor's Energy Council of Pennsylvania reported on March 10, 1975, that the risk of high unemployment due to gas curtailments was very high.⁸ All but 5 of Pennsylvania's 67 counties have 1 or more industries with critical need for natural gas. These industries employ 324,500 workers with a combined income of \$2.83 billion in salaries and wages.

Particular industries affected most severely by curtailments included glass working, metals (primary and finished products), lime and limestone, ceramic kilns, food, and agricultural tools and products. According to the Pennsylvania study, any reduced output by industries in these categories would result in large and widespread unemployment, diminished wages and salaries (hence buying power), reduced tax revenues to government, and an increased demand for services provided by State government.

Pennsylvania has moved toward seeking answers to the problem of gas supply, including adoption of a statewide natural gas curtailment policy based on end-use priorities, and installation of a number of conservation efforts ranging from incentive and assistance programs to mandatory regulation.

North Carolina.—For the past several months, and based upon past experiences with severe shortages of natural gas, the State's natural gas joint task force (composed of the energy division, the utilities commission, and the State's department of natural and economic resources) has been conducting a continuous assessment of what the impact of 1975-76 projected gas storages could have on North Carolina's 1,500 plants using natural gas.

In sum, the greatest demand for gas will continue to come from the textile industry, which accounts for about 22 percent of the market. Other large consumers include the State's chemical industries, health services, paper and allied products, and educational institutions. North Carolina is served by one pipeline company (Transco), which has estimated a 60-percent shortfall for 1975-76. This translates as a curtailment of 20 million mcf. According to State officials, North Carolina's hardcore requirement for gas is 53 million mcf. This is the amount needed for feedstock, plant protection, industrial processes, and residential users. Sixty percent is substantially beyond their own estimated breaking point of a cutback of 36 percent without doing grave harm to the State's economy.

North Carolina faces the additional grim prospect of finding no real relief even if alternative fuel sources are available. By volume, based on normal conditions, the alternatives would be in excess of 336 million gallons of petroleum product: 43 percent for residual; 35 percent for No. 2 fuel oil, and 22 percent for propane. Of the State's 1,500 plants using natural gas, 283 do not at present have the capability to switch to an alternative fuel. Furthermore, even taking into consideration the State set-aside volumes of petroleum products set up under the Federal petroleum mandatory allocation regulations, North Caro-

⁸ "Natural Gas Curtailment in Pennsylvania: Impacts, Problems, and Policy Planning," Governor's Energy Council, Philadelphia, Mar. 10, 1975, ii.

lina's set-aside volumes will not be sufficient to cover a gas curtailment of the magnitude presently projected.^{9a}

New York.—New York exhibits a high degree of proficiency by State government to meet the gas shortage crisis with firm and forward-looking alternatives. Since 1971 its gas operations advisory committee has prepared an annual statewide gas report, setting forth all information available regarding the supply situation of the State. The intention of the report is fundamental: It is to make gas users aware of where in the State additional supplies might be available and how long-range supply planning might be facilitated on both an individual company and a statewide basis. A State energy spokesman said there was little direct input into this plan by any Federal agencies.

The annual report referred to above is filed no later than July 1 of each year. It stresses to what extent restrictions of gas supply exist and can be anticipated. The report identifies when and where potential shortages may occur throughout the State and usually in sufficient time to permit remedial steps.

According to the most recent report issued by the advisory committee, the supply situation in New York can best be described as "marginal" and a condition bound to prevail through 1978. The period of 1975-76 is concluded to be the worst year for the downstate New York areas. Columbia Gas of New York recently advised its customers that its curtailment level would be 28 percent commencing November 1, 1975, which, according to the company, will result in a complete cessation of deliveries by Columbia to its industrial customers in New York. Upstate sections will also show increasing deficiencies of supply. The most worthwhile observation that can be made at this time is that the estimated total gas requirements for the State as a whole show an increase for each year through 1978, despite an extensive effort to limit use through promotion of conservation efforts and reduced additions of new customers. Moreover, New York is quite aware of the fact that the coming winter could bring severe weather conditions. As a direct result, the gas committee has included a contingency effort to meet severe situations through a series of "self-help" strategies and tactics. At best, however, this approach can only apply temporary palliatives to what can become multiple and extreme injury situations very quickly.⁹

Ohio.—Contrary to the veiled optimism of New York, with its advanced planning systems underway, Ohio displays all the symptoms of a State emerging from a statewide curtailment schedule of 55 percent for 1974-75 only to be confronted with worsening conditions for the winter of 1975-76. By virtue of early estimates provided it by Columbia Gas of Ohio, the State is preparing for a natural gas shortfall of at least 60 percent, affecting 1,288 users, including many of the State's basic heavy industries.¹⁰

In his energy message to the Ohio General Assembly on May 21, 1975, Governor James A. Rhodes outlined a bleak picture of increased shortages, higher unemployment, more closed factory doors, and grave public distress for his State. Gas company executives had informed

^{9a} Statement by Paul L. Hitchcock, acting director, State energy division, North Carolina, June 24, 1975.

⁹ Phone interview with Thomas R. Hughes, assistant to the chairman, New York Public Service Commission, June 10, 1975.

¹⁰ Based on phone interviews with Columbia Gas Co. executives, June 25, 1975.

him earlier that the curtailment schedule would cut deeper and wider than had been the case in 1974-75, indicating that by the time the coldest days of the coming winter arrived, the curtailment could be at 80 to 90 percent. Significantly, natural gas provides approximately 40 percent of the energy needs of Ohio industry, but what distressed the State's chief executive most was the fact that no guarantees could be given that there would be any natural gas for any industry over most of the State for the coming season. Governor Rhodes stated the situation bluntly:

Ohio, the greatest industrial State in the Nation, faces an unprecedented crisis. It is urgent that we begin today to keep this crisis from becoming a full-blown disaster.¹¹

The critical nature of Ohio's predicament cannot be understated. Ohio is the Nation's fourth largest user of natural gas for industry, and 1974-75 curtailments resulted in the loss of an estimated 1.6 million man-days to Ohio workers.

Kentucky.—The natural gas shortage in Kentucky is compounded by the current pro rata system used by Columbia Gas Transmission Corp., in distributing its own 28-percent curtailment to Columbia Gas of Kentucky, resulting in a 100-percent curtailment to Kentucky's industrial customers.

The impact of this curtailment on the State, which has a relatively high proportion of residential users, is that any shortfall must be spread among a smaller percentage of users, thus requiring larger curtailments to industrial and commercial operations.

Many manufacturing concerns have reported they are without alternate fuel sources and many others have indicated they need some minimum gas supplies to sustain critical operations where there is no substitute for natural gas.

The impact of the present pro rata system on Kentucky is that approximately 135 manufacturing companies will be curtailed 100 percent, and 110 commercial operations will be curtailed 100 percent. This has the potential of affecting approximately 30,000 industrial jobs and, as of this writing, an unknown number of commercial jobs.¹²

West Virginia.—Beginning in November 1975, because of Columbia Gas of West Virginia's curtailment plan, industry and commercial enterprises which use more than 3,000 million cubic feet of natural gas annually will be curtailed 60 percent, according to Keith Zillfro, director of the State's fuel and energy office.

The West Virginia Oil and Gas Conservation Office is working to promote conservation and education, including development of incentives to encourage industrial conservation. This has raised a problem of Hobson's choice.

As an example, one industry overhauled its kiln and through such procedures cut its fuel needs by 50 percent. During the forthcoming season of 1975-76, the same industry will have 60 percent of the fuel that it has conserved curtailed. The net effect has been that industries which have carried out conservation measures face additional curtailment—in some instances to a greater degree of hardship than those of its competition.

¹¹ Message to the joint legislature, May 21, 1975.

¹² Position paper by John M. Stapleton, director of the Kentucky Energy Office, Research and Planning Division, Department of Commerce, and subsequent telephone conversations with subcommittee staff.

The West Virginia Fuel and Energy Office plans to purchase a thermal camera by which it can determine sources of heat leakage in houses, in industries, and elsewhere. Helicopter fly-overs are planned, especially for residential districts and thermal pictures will be taken. The findings can indicate where heat loss most often occurs in homes. An effort can thus be made to raise homeowner awareness of the problem and show them where they may be losing money through energy waste.

Though the impact of the curtailment in West Virginia has not yet been translated into loss of jobs, the prediction has been made that if the natural gas supply situation does not significantly improve, the State may find it necessary to initiate subtle actions to relocate people and industry and place them closer to the pipelines. This action has been described by one senior State official as brutal but needed since the present system uses 10 to 15 percent of the State's total energy output just to transport the gas to the users.

New Jersey.—There are four gas companies serving the State. The three northern New Jersey companies, barring an extremely severe winter, will be able to supply all of their firm customers. Moreover, industries in north New Jersey are prepared to switch to alternate sources of fuel if needed and the State's energy office is prepared to assist these industries in obtaining substitute fuel.

A forthcoming 3 billion cubic-foot winter curtailment to Southern Jersey Gas Co., by Transco Corp., however, this winter translates into a 60-percent curtailment of natural gas for industrial customers in southern New Jersey.¹³

Many of the State's glass manufacturers are located in the southern section of the Garden State and certain processes in glass manufacturers can utilize no fuel other than natural gas. The situation this winter, at worst, according to Charles A. Richman, administrator of the New Jersey Energy Office, could affect between 15,000 and 20,000 jobholders in a State already hit with one of the highest unemployment rates in the country at 13 percent.¹⁴

Negotiations are currently underway to purchase 1 billion cubic feet of LNG from Algonquin Gas Co. Even if successful, however, the shortfall of 2 billion cubic feet remains. SNG can be supplied from a northern Jersey manufacturer, but at a price of \$5.25/m.c.f. With the amount of natural gas needed, this is not considered an economically practical recourse for most of the industries involved.

Mr. Richman noted that meetings between the northern gas suppliers and southern industries could be held, and arrangements for supplying could be worked out. This is, in fact, what occurred last year when the curtailment was only 35 to 40 percent.

New Jersey feels it has the power if needed to order the northern New Jersey companies to supply the State's southern industries, but it would be a step that New Jersey would be reluctant to take.

SUMMARY OF IMPACT

Lack of information on the precise extent and location of curtailments limits the prospect of accurate estimates being prepared summarizing direct/indirect effects on employment and economic produc-

¹³ Phone interview by staff with Mr. Charles A. Richman, July 7, 1975.

¹⁴ Figure as of May 1975, from the New Jersey Office of Public Information on Labor and Industry.

tivity. It seems reasonable to conclude, however, that the following situation prevails in general:¹⁵

Nearly 50 percent of American manufacturing depends upon natural gas for in excess of one-half its fuel-based energy. These industries represent at least one-half of the manufacturing value added, shipments, and employment outlets of the American economy.

Industry within excess of 80 percent dependence upon gas, but faced with severe curtailments, include chemicals, petroleum refining, fertilizers, sugar, metal cans, steel pipe and tubing, oilfield machinery, and nonferrous metals. Any disruption of these basic industries as a result of curtailed gas supply will have a twofold disastrous effect—increasing unemployment and reducing productivity. Attendant price increases also can be anticipated.

Glass products, structural clay products, building paper, biological products, rice milling, dehydrated food products, vegetable oils, aircraft, telephone and telegraph equipment, and gypsum products fall into industrial categories severely hit by projected curtailment.

Recurrent patterns of past curtailments promise near disastrous effects in such large industrial States as New York, New Jersey, Pennsylvania, Ohio, West Virginia, and North Carolina. States such as Kentucky, with a larger proportion of residential users, also face tough times.

Dislocations probably will be most severe in those industries least prepared for conversion capability but most dependent upon gas supply. These appear to include industrial chemicals, plastic materials, synthetic rubber, alumina and primary aluminum, and motor vehicle parts.

Disruption of gas service through curtailment will trigger a domino-like effect inasmuch as the initial users' loss of service has an impact upon the industries those users supply. Examples include motor vehicle parts and accessories, industrial chemicals, plastic materials, petroleum refining, iron and steel, and lime and hydraulic cement.

Conversion to other fuels is costly and time consuming, even where it is possible.

The likelihood of shifts to other fuels depends upon the availability of alternative energy sources, competitive prices for such sources, and available capital in adequate quantity. Environmental regulatory constraints and the presence of new conversion equipment compound the problem.

Some manufacturers have indicated they may be forced to relocate their plants in States where gas curtailments are not as great.

Conservation efforts are limited in application and effect, and when viewed in terms of industrial adoption, propose serious disruptions in manufacturing activity.

Of the 25 largest natural gas-using industries in manufacturing (accounting for 70 percent of total use, excluding utilities), alternative fuel capability exists only in petroleum refining and steel.

In gas-intensive processes, such as steel, where natural gas is essential (for billet reheating and heat treating as examples), curtailments can cause sharp decreases in production.

The economic health and national security of the Nation are endangered because of the potential adverse effects on employment and industrial production.

III. EXISTING LAW AND THE NATURAL GAS SHORTAGE EMERGENCY

From the accumulating evidence, the conclusion seems inescapable—the prospect of a severe natural gas shortage during the winter 1975–76 is a very real prospect. If the predictions of the producers, shippers, distributors, users, and regulators of natural gas are realized, the natural gas shortage and resulting industrial, commercial, and residential curtailments begin to assume the proportions of a national emergency.

How will the Government deal with this emergency? Which departments and agencies have responsibilities here? What plans and preparations have been made? What are the legal authorities at our disposal to deal with this emergency?

Unfortunately, Government rarely turns its attention to laws relating to emergencies, or to emergency preparedness for that matter, until the emergency is upon it. The Federal laws and emergency preparedness structures generally reflect reactions to specific emergencies of the past.

A number of Federal statutes were enacted during the late 1940's and early 1950's to provide continuing mechanisms for emergency planning and preparedness. These statutes reflect the cold war era's preoccupation with national security and defense. They include the National Security Act of 1947,¹⁶ the Federal Civil Defense Act of 1950,¹⁷ the Strategic Materials Act,¹⁸ and the Defense Production Act of 1950.¹⁹ It is the Defense Production Act of 1950 which provides the broadest authority for emergency planning and action, and pursuant to which authorities for dealing with emergencies in general, and emergencies such as natural gas shortages in particular, have been delegated and redelegated and assigned, and offices to carry out such delegations and assignments have been established and continue to operate.

Under the Defense Production Act, the President is authorized to require priority execution of contracts "necessary or appropriate to promote the national defense,"²⁰ and to allocate materials in such manner and upon such conditions as he deems "necessary or appropriate to promote the national defense,"²¹ provided that he finds that the material in question (including natural gas) is a "scarce and critical material essential to the National defense."²²

The President initially delegated his authority under that act to the Director of the Office of Emergency Planning²³ and subdelegated

¹⁶ 50 U.S.C. 401 et seq.

¹⁷ 50 App. 2251 et seq.

¹⁸ 50 U.S.C. 98 et seq.

¹⁹ 50 App. U.S.C. 2061 et seq.

²⁰ 50 App. U.S.C. 2071(a)(1).

²¹ 50 App. U.S.C. 2071(a)(2).

²² 50 App. U.S.C. 2071(b).

²³ Executive Order No. 10480, Aug. 18, 1953.

¹⁵ Department of Commerce, "The Impact of Prospective Natural Gas Curtailments on U.S. Industry," Washington, D.C. (unpublished draft report), Sept. 6, 1974.

authority to "The Secretary of the Interior with respect to petroleum, gas solid fuels, and electric power."²⁴ Pursuant to that delegated authority, the Secretary of the Interior established the Defense Electric Power Administration and the Emergency Petroleum and Gas Administration within the Department of the Interior. Both these administrations have very small staffs²⁵ and are primarily engaged in coordinating an emergency response network to deal with national disasters such as hurricanes or with post-attack situations.²⁶ To assist the Secretary of the Interior with respect to his delegated duties concerning natural gas emergency preparedness, the Secretary has appointed an Emergency Advisory Committee for Natural Gas. This advisory committee, composed of representatives of gas producers, shippers, and distributors, was established to deal with national defense emergency situations, but nevertheless convened in Chicago on June 19, 1975, to consider the natural gas emergency for the winter of 1975-76.²⁷

The Office of Emergency Planning became the Office of Emergency Preparedness in 1968²⁸ and succeeded to the responsibilities of the former office. The Office of Emergency Preparedness was in turn abolished²⁹ and its responsibilities were vested in the Administrator of the General Services Administration.³⁰ Throughout this time, the subdelegation to the Secretary of the Interior with respect to natural gas remained intact.

With the advent of the energy crises, the Federal Energy Office succeeded to the President's authority under the Defense Production Act "as it relates to the production, conservation, use, control, distribution, and allocation of energy."³¹ Upon the establishment of the Federal Energy Administration (FEA), that agency received a further delegation of the same authority.³² The delegation to the FEA was cast in the following terms:

Notwithstanding the provisions of Executive Order No. 10480, as amended, the Administrator is authorized to exercise the authority vested in the President by the Defense Production Act of 1950, as amended * * * as it relates to the production, conservation, use, control, distribution, and allocation of energy, without approval, ratification, or other action of the President or any other official of the executive branch of the Government.³³

²⁴ Id., sec. 201(a)(1).

²⁵ The Defense Electric Power Administration, Emergency Petroleum and Gas Administration, Emergency Solid Fuels Administration, Emergency Minerals Administration, and the Emergency Water Administration are staffed by a total of 13 people.

²⁶ "A Guide to the Defense Electric Power Administration," U.S. Department of the Interior, 1972.

²⁷ Although the Emergency Advisory Committee for Natural Gas by terms of its charter is to assist the Secretary in connection with "emergency preparedness responsibilities for natural gas assigned to the Secretary by Executive order," i.e., national defense emergencies, the Department of the Interior was reluctant to claim that the 1975-76 natural gas emergency is a "national defense emergency." Statement of Assistant Secretary Jack W. Carlson before the Conservation, Energy, and Natural Resources Subcommittee, House Committee on Government Operations, June 26, 1975.

²⁸ Public Law 90-608, 1968.

²⁹ Reorganization Plan No. 1 of 1973.

³⁰ Executive Order No. 11725, June 27, 1973.

³¹ Executive Order No. 11748, Dec. 4, 1973.

³² Executive Order No. 11790, June 25, 1974.

³³ Id., sec. 4.

The peculiar language of the delegation of authority to FEA was intended to create authority in FEA concurrent with authority already delegated to the Administrator of GSA and the Secretary of the Interior.³⁴

Meanwhile, the Federal Power Commission was instructed by the President (pursuant to the Defense Production Act and related authorities) to "assist the Department of the Interior * * * in the preparation of national emergency plans and the development of preparedness programs for electric power and natural gas. * * *"³⁵

Although the FEA participates in the authorities and activities pursuant to the national defense-oriented Defense Production Act, that agency is itself a monument to a later emergency—the petroleum emergency. Most of FEA's emergency powers, encompassing production, allocation, distribution, and pricing, are designed to deal with petroleum-related emergencies.³⁶ However, FEA does have specific responsibilities to "assure that adequate provision is made to meet the energy needs of the Nation."³⁷ To accomplish that purpose, it is charged with assessing the adequacy of energy resources to meet the demands;³⁸ identifying, reviewing, and reporting anticipated shortages; and recommending measures to minimize deficiencies of energy supplies and maintaining production and employment at the highest feasible levels.³⁹ The FEA is also charged with the development of a comprehensive energy plan designed to alleviate the energy shortage.⁴⁰ FEA also has authority under the Energy Supply and Environmental Coordination Act of 1974⁴¹ to prohibit the burning of natural gas by powerplants and other major fuel burning installations, provided that an elaborate array of technological, environmental, and procedural conditions are met.

The broadest Federal regulatory control over natural gas is the authority of the Federal Power Commission. Under the Natural Gas Act,⁴² the FPC has authority to regulate interstate shipment, distribution and price of natural gas. As a part of its authority over interstate shipment of natural gas, the Commission has prescribed procedures for developing load relief dealing with natural gas shortages and emergencies for natural gas pipeline companies under its jurisdiction.⁴³ Although FPC's authority is key to any natural gas emergency, that agency has no authority with respect to either intrastate gas distribution, shipment, or pricing; allocation of gas between interstate and intrastate lines; or allocation between one interstate line and another.⁴⁴

³⁴ Subcommittee staff conversations with Ronald A. Kienlen, Assistant General Counsel, Office of Management and Budget, on May 21, 1975.

³⁵ Executive Order No. 11490, Oct. 28, 1969.

³⁶ 15 U.S.C. 751 et seq.

³⁷ 15 U.S.C. 764(a).

³⁸ 16 U.S.C. 764(b)(2).

³⁹ 15 U.S.C. 774(c)(3).

⁴⁰ 15 U.S.C. 781.

⁴¹ 15 U.S.C. 792.

⁴² 15 U.S.C. 717 et seq.

⁴³ This authority was upheld in *FPC v. Louisiana Power & Light Co.*, 406 U.S. 621 (1972).

⁴⁴ Testimony of Hon. John N. Nassikas, Chairman of the FPC, before the Conservation, Energy, and Natural Resources Subcommittee, House Committee on Government Operations, June 12, 1975.

When the necessity to take concerted Federal action to deal with the impending natural gas emergency was recognized,⁴⁵ the executive branch turned not to the FEA, nor to the FPC, nor to the Department of the Interior, nor to the Office of Emergency Preparedness in the GSA, but to a new entity—the Energy Resources Council.⁴⁶ That 24-member council,⁴⁷ which is charged by section 108 of the Energy Reorganization Act of 1974⁴⁸ to insure coordination among Federal agencies which have responsibilities for energy policies, has now been charged with responsibility to assess the natural gas emergency for the winter of 1975-76 and to recommend necessary action to the President.⁴⁹

Now that the FPC reports confirm the long-suspected natural gas shortage for the winter of 1975-76,⁵⁰ a brief resumé of governmental actions to deal with the emergency is in order.

Because the Energy Resources Council has been charged with leading and coordinating the Federal efforts to deal with the emergency, this report will begin with it.

As mentioned earlier, the Council consists of 24 members appointed by Executive order and representing generally the Federal departments and agencies which have duties and responsibilities related to energy. The Council membership has been shuffled three times during its brief existence since October 16, 1974.⁵¹

The Energy Resources Council did not direct its full attention to the impending natural gas shortage until May 1975 when it devoted a meeting to that subject.⁵² It determined then that a new interagency task force should be created to examine the problem and report back to the Council.⁵³

That task force, representing 16 agencies, was duly established as the natural gas policy and contingency planning task force, under the leadership of FEA. The task force met initially on June 11, 1975. On June 21, 1975, the Administrator of FEA reported to the Energy Resources Council the task force plan and schedule, as follows:

The task force will provide a forecast by the end of July of the shortage and associated economic impacts during the

⁴⁵ The Energy Resources Council first devoted a meeting to the problem in May 1975.

⁴⁶ Executive Order No. 11855, May 5, 1975.

⁴⁷ Executive Order No. 11814, as amended by Executive Order No. 11819 and Executive Order No. 11855:

*** Sec. 2. The Council shall consist of the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Director of the National Science Foundation, the Administrator of General Services, the Chairman of the Federal Power Commission, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Affairs, the Assistant to the President for Domestic Affairs, the Special Assistant to the President for Consumer Affairs, and such other members as the President may, from time to time, designate. The Chairman shall be designated by the President. * * *

⁴⁸ Public Law 93-438, Oct. 11, 1974.

⁴⁹ The Energy Resources Council established a natural gas policy and contingency planning task force to carry out its functions with respect to the 1975-76 natural gas emergency. That task force met for the first time during the week of June 1, 1975.

⁵⁰ FPC news release No. 21454, June 6, 1975; FPC news release No. 21465, June 11, 1975.

⁵¹ Executive Order No. 11814, Oct. 16, 1974, amended by Executive Order No. 11819, Nov. 20, 1974, as amended by Executive Order No. 11855, May 5, 1975.

⁵² Subcommittee staff conversation June 24, 1975, with Bruce Pasternak, Deputy Assistant Administrator, Federal Energy Administration.

⁵³ Testimony of Eric Zausner, FEA Deputy Administrator, before the Conservation, Energy, and Natural Resources Subcommittee, House Committee on Government Operations, June 12, 1975.

winter season of 1975-76, based on a sample survey of major producers, distributors and users. By mid-September, the task force will have an operational permanent, short-term data collection and forecasting system, and will draft and circulate for review an operational contingency plan to be implemented during the winter heating season. By the end of September, the task force will extend the shortage and economic forecasts to the regional and State levels, and will finalize the results of policy analyses and the operational contingency plan.⁵⁴

On June 24, 1975, the task force chairman informed the subcommittee that a two-pronged approach was being pursued: data was to be gathered and hopefully would be in hand by August; meanwhile, policy options were being analyzed and would be in focus by mid-July. Contingency plans that might be applicable to communities or industries especially hard hit by a natural gas shortage were not yet being addressed by the task force.⁵⁵

The Department of the Interior apparently recognized the problem earlier. On April 7, 1975, Assistant Secretary Carlson in a letter to the Chairman of the Department's Emergency Advisory Committee for Natural Gas observed:

One of the major energy and economic problems facing our country is natural gas curtailments. Curtailments are increasing and promise to continue to do so during the next several years. This is having a large impact on employment and industrial output, particularly in regions most dependent upon interstate natural gas. As consumption continues to outpace discoveries of new natural gas reserves, the curtailments can be expected to worsen.⁵⁶

The Assistant Secretary went on to ask that the Emergency Advisory Committee for Natural Gas study the problem of the shortage and evaluate alternative ways to reduce the adverse impact of the curtailments. Despite the urgency of the Assistant Secretary's letter, the Emergency Advisory Committee postponed its meeting until June 19 in the belief that similar work might already be underway in FEA.⁵⁷ The Emergency Advisory Committee determined that it would pursue a study of the problem based on the preliminary data as to curtailments gathered by the FEA and FPC. The study will also address the capacity of the industry to work with the Government in this area and recommend governmental structure and authority to deal with the emergency. The Emergency Advisory group's recommendations will be available to the Department of the Interior and the ERC.

The emergency planning activities of the Emergency Petroleum and Gas Administration were thoroughly interrupted when all its person-

⁵⁴ Memorandum, June 21, 1975, from Frank Zarb to Energy Resources Council, on natural gas policy and contingency task force participation.

⁵⁵ Subcommittee staff conversation with Bruce Pasternak, Deputy Assistant Administrator, Federal Energy Administration, June 24, 1975.

⁵⁶ Letter of April 7, 1975, from Assistant Interior Secretary Jack W. Carlson to Seymour Orlofsky, Chairman, Emergency Advisory Committee for Natural Gas.

⁵⁷ Minutes of meeting of the Emergency Advisory Committee for Natural Gas, June 19, 1975.

nel were initially moved to FEA with the transfer of the Office of Oil and Gas to that Agency. Those personnel recently were reassigned to the Department of the Interior, where they will resume their emergency planning activities soon.⁵⁸

The Department of the Interior has provided for the coordination of its activities relating to natural gas with the FPC through a memorandum of understanding. However, no such memoranda have been prepared to coordinate Interior-FEA relations or FEA-FPC relations, nor has the GSA prepared such memoranda with respect to its natural gas emergency preparedness functions.

The agency with the broadest experience relative to the natural gas emergency is clearly the FPC. To prepare for the natural gas curtailments for the winter of 1974-75, the FPC gathered detailed information from 42 major interstate pipeline companies as to anticipated curtailments to determine the extent of local and regional industrial dislocation. The FPC also requested the Future Requirements Committee (an organization of gas producers, shippers, and distributors) to assess the impact of curtailments on the end-use markets.⁵⁹

With respect to the winter of 1975-76, the FPC is again gathering data from the interstate pipelines as to anticipated curtailments. It is going beyond this to request information from all regulated suppliers of natural gas to end-use customers. An evaluation of the impact of the anticipated curtailments upon the economy is also being prepared by FPC in cooperation with industry, academic, State and Federal agencies, and others.⁶⁰

While FPC gathers data concerning the shortage in the context of its jurisdiction; that is, the interstate market, the FEA plans to gather the same data from the intrastate market.⁶¹

Meanwhile, a parallel effort to gather data as to the natural gas shortage and the anticipated curtailments over the 1975-76 winter season will be made by the Gas Requirements Committee (GRC).⁶²

The committee, as a result of its studies, believes it is fair to conclude the following:

Responsibilities to prepare for and deal with the natural gas emergency are held by the FEA, the FPC, the Department of the Interior, and the General Services Administration.

Emergency preparedness authority of the FEA under the Defense Production Act parallels and duplicates the authority of the Department of the Interior and the GSA.

Executive Order No. 11790, delegating emergency authority to the FEA, has created further confusion as to the emergency authorities of the respective agencies.

⁵⁸ Subcommittee staff conversation with Ben Tafoya, Emergency Petroleum and Gas Administration, Department of the Interior, May 22, 1975.

⁵⁹ Testimony of John N. Nassikas, Chairman, Federal Power Commission, before the Conservation, Energy, and Natural Resources Subcommittee, House Committee on Government Operations, June 12, 1975.

⁶⁰ Id.

⁶¹ Id.

⁶² The GRC is sponsored by the Gas Industry Committee, Denver Research Institute, University of Denver, and is composed of members from the gas producing, pipeline, and distributions industries, with observers from State and Federal regulatory bodies, American Gas Association (AGA), American Petroleum Institute (API), Independent Natural Gas Association of America (INGAA), and the National Association of Regulatory Utility Commissioners (NARUC). The Gas Requirements Committee activities are funded by the AGA, the API, and the INGAA.

Exchange of information, or coordination of energy emergency planning, is sorely lacking.

No memorandums of understanding as to natural gas emergency planning or activities have been formulated between any of the involved agencies other than one between the FPC and the Department of the Interior.

Because of the diffusion of responsibilities for natural gas emergency preparedness and action, and because of a lack of coordination among those agencies having responsibilities, a new ad hoc coordinating mechanism had to be employed in the ERC.

The natural gas emergency of 1975-76 represents an accelerating pattern which may become more severe in future years.

No clear mandate to prepare for and take action to deal with natural gas emergencies is provided in Federal law.

No department, agency, or office of the executive branch exercised lead responsibility to coordinate preparation for the impending natural gas emergency.

IV. THE SHORTFALL OF NATURAL GAS INFORMATION AND ACTION TO DEAL WITH WHAT ALREADY IS KNOWN

The warning issued by the White House on July 3, 1975, officially acknowledging the existence of a natural gas shortage for the 1975-76 period contained soothing guarantees that a July 15, 1975, roundup on a State-by-State basis of demand-supply problems would produce clear-cut options for the Nation's economic and political decisionmakers. Predictably, that deadline was not met.

Given the degree of the problem and the duplicative aspects of the effort to overcome its ramifications for wise policy and its timely adoption, it is extremely difficult to conclude that when this year's winter arrives, the hope of spring will not be far behind. The Bicentennial months of November 1975 through April 1976 may very well conjure up realistic visions of Washington's discomfort at Valley Forge.

As of June 24, 1975, according to FEA, actions being taken by various Federal agencies regarding the natural gas shortage situation consisted of the following:

(1) Members of the Energy Resources Council Natural Gas Policy and Contingency Planning Task Force (a 16-member group) were reviewing policy option papers prepared by the Federal Energy Administration.

(2) The Federal Power Commission had issued a joint form (form 69) with the Federal Energy Administration to help the latter agency in its effort to sustain a data-gathering system. This included providing form 16 information to the Federal Energy Administration for analysis, though the breakdown of detail would not be available for use until mid-July.

The Commission was also providing the Federal Energy Administration with 1974-75 and 1975-76 data on historical and project curtailments for the seasons.

(3) The Department of Commerce had established a task force to evaluate industry data and positions with regard to the Federal Energy Administration's aforementioned policy options.

(4) The Council on Environmental Quality was in the process of preparing an environmental impact statement in conjunction with the Federal Power Commission regarding the impact of the natural gas curtailment program, where industry or commercial establishments might be forced to go to alternative fuel sources; i.e., coal and oil.

(5) The Department of the Interior was reported to be working on issues pertaining to shut-in gas well capacity.

This listing constitutes the sum total of activity taken on by those major Federal agencies charged with direct responsibility for handling the planning, organization, staffing, directing, coordinating, and reporting functions necessary for mobilization of all governmental efforts on behalf of effective natural gas shortage emergency actions.

This is the record, despite the fact that the Federal Government has been aware for months that the natural gas shortage would hit certain States and areas especially hard. It is not necessary to wait for the last decimal point of data on these areas to know that something must be done. Each Federal agency which in some way could prevent or alleviate hardship on the people and industries in these already-identified trouble spots should have been hard at work long ago on the tasks that need to be done.

It should be noted that Assistant Interior Secretary Jack W. Carlson acknowledged, during testimony before the subcommittee on June 26, 1975, that the shortage effects will approach those of the 1973 Arab oil embargo with equally devastating results.

Obtaining accurate estimates of the shortfall of natural gas forces the viewer to accept the possibility that the validity of the calculations may be as high or low as the conflicting estimates surrounding the remaining reserves of gas, oil, and coal in the United States. Following is a chart showing such estimates.

	Oil		Gas		Coal	
	Billion barrels	Years remaining at current use rates	Thousand cubic feet	Years remaining at current use rates	Billion tons	Years remaining at current use rates
Proven recoverable with current technology and economics.....	40	7	250	11	434	700
Total proven reserves.....	300	50	500	22	1,600	2,600
Ultimately discoverable reserves.....	600	100	900	40	3,200	5,200

Source: National Petroleum Council/Federal Energy Administration.

Nevertheless, the decisionmaker in Government is left very little recourse by which to support his actions since the data-gathering activity of the Federal Government, concerning natural gas supplies, is divided and overly competitive. Furthermore, much of the information that is sought is provided by industry groups, who tend upon occasion to overstate the severity of the case—depending upon the circumstances, and/or the policy changes being sought before various Federal agencies—with the ultimate effect of raising many unanswered questions as to the data's verity.

Chief among those agencies seeking information is the Federal Power Commission, which through questionnaires circulated among the interstate pipeline corporations, obtains estimates of the degree of curtailment anticipated by the companies. This information, while timely in its release early in the season—normally, the data are collected by April 30 and released by mid-June of each year—is limited in its parameters and depth of coverage. The so-called form 16 has been expanded this year, 1975, and now seeks information by State and county and by month of actual and projected curtailments to distributors and direct industrial customers. The historical record, however, for information in this form of detail is yet to be made.

While it is not the purpose of this report to be overly critical of the efforts of the Federal Power Commission to come to grips with the problem of informational needs—as they pertain to basic curtail-

ment, allocation, or deregulation policies—it is important for the Congress to understand the flaws within the current system and the patchwork effort underway to be able to throw something together even during the present crisis of 1975. The Commission's efforts are genuine in attempting to obtain necessary base data from the pipeline group as well as to follow the track record of delivery through the distribution chain to the ultimate user. For the record, the Commission feels that it lacks the necessary authority to do a complete job, as testified to by the Chairman of the Commission, John N. Nassikas, before the Conservation, Energy, and Natural Resources Subcommittee on June 12, 1975. In effect, in the face of considerable difficulty and mounting criticism over its efforts, the Commission has attempted to resolve the problem by strengthening the form 16 questionnaire and by graduating it more and more into the realm of not only seeking out information concerning gas requirements, but specifically, seeking the all-important patterns that follow on the basis of gas utilization. It is in this latter-type venture that much improvement and expansion remains to be effected and to which the Congress must address its attention. Policy, if it is to be effective, is only as dependable as the accuracy and completeness of the information upon which it is based. The systems in use, regarding obtaining natural gas supply data, are a conglomeration of glue, sticky tape, paper clips, rubberbands, and paste. Scissors are the most frequently adopted administrative tool, and inserts are the rule rather than the exception.

Beyond the Federal Power Commission's efforts to derive information pertaining to use patterns lies the new-found interest of the Federal Energy Administration as a seeker of fact and a separator of fiction. Testimony before the Conservation, Energy, and Natural Resources Subcommittee offered by FEA Deputy Administrator Eric Zausner on June 12, 1975, is revealing for what it doesn't say regarding the state of preparedness of the lead Federal agency in energy matters. The legislative policymaker is forced to go to other sources of information in order to determine the capability and the commitment of the Federal Energy Administration to developing a comprehensive information system and data base concerning natural gas supply, distribution, and use patterns. The Federal Energy Administration, given the experiences of 1973-74 and 1974-75 in which to conceptualize such a base information system, has barely initiated these critical steps of design. As of July 1, 1975, it had only obtained approval of a new questionnaire—repetitive in a number of instances of that form circulated earlier by the FPC and duplicative of others—with the expressed hope that by sending the form to a select group of users, approximately 2,000, the patterned response would reveal on a State-by-State basis the weak spots—regarding industrial and commercial use—and afford the agency the justification for recommending certain remedial steps.

The timetable for this exercise boggles the imagination of the frustrated decisionmaker. The questionnaire was released July 1, 1975. The presumption behind it included the optimistic hope that a 30-day turnaround—by which time the information sought would be returned to the Federal Energy Administration—would hold true. Nevertheless, one Commerce Department spokesman, in commenting on the survey, noted that there is absolutely no way for the Government decisionmaker to get equivalent total information on the depth of the shortage

and its impact upon the user such as is obtainable by census survey methods. For the record, the only valid source of information in this detail is that published in the 1972 Census of Manufacturers, which contains very valuable information in need of almost annual updating, relative to the natural gas user pattern.

The Federal Energy Administration, in conjunction with the Federal Power Commission, is circulating the above-noted questionnaire, form 69, among interstate and intrastate pipelines and distributors. Assuming the timeliness of the turnaround period of July 1 to August 1, it is probable that preliminary estimates would be available in various forms of correlation by late August or early September 1975. Hard preparation, or that which would represent reasonably well-conceived and executed correlations, probably cannot be anticipated from this reservoir of new fact until late fall or early winter. In the meantime, by its own admission, the Federal Energy Administration must work with "prepared estimates" based upon a selective group of industry and commercial activities. The care with which the manipulation of statistics and information will be undertaken must be monitored with great interest inasmuch as the cross-section of industry and commerce being surveyed is very narrow and can produce widely skewed results in terms of cause and effect on behalf of the natural gas shortage.

As an example of the problem, it should be noted that while there are in excess of 100 ammonia plants in the United States, only 7 are scheduled to be contacted by the FPC-FEA form 69 questionnaire. The situation regarding the production of synthetic ammonia as a base feedstock for the fertilizer industry is critical to the food supply prospects of the United States. The decisionmaker must trust in other prospects, however—namely, that the questionnaire has gone to the correct seven industries and that they are the "magnificent seven" in view of the fact that they are an errorless cross-section of the industry.

There is yet one more major effort underway to produce much needed user information in time to meet the economic crunch of the shortage this winter. Within the gas industry itself labors the Gas Requirements Committee (GRC), composed of representatives of the gas producing, pipeline, and distribution industries. The GRC has developed the most comprehensive and detailed requirements forecast available and has done so on a national, regional, and State-by-State basis. Its effort stems from what has been described as a "grassroots" concern for a "grassroots" problem, and in its quest to provide solutions for the supply problem, it has gone to the final supplier level seeking estimates of gas requirements based upon a number of assumptions including the technological state-of-the-art to deliver and the probability that there will be no disasters during the forecast period. On this latter issue, the accuracy of the GRC's estimates may be challenged since the shortfall of supply anticipated for the 1975-76 season is so huge that the industry's ability to develop any meaningful contingency plan for delivery may be questionable. A major flaw in the GRC's forecast stems from the basic assumption made at the outset of the survey—that there will be an adequate supply of gas for requirements for the period covered by the survey. There is also the possibility that these assumptions are in the process of being altered in a manner of providing the GRC with more realistic and accurate forecasting results.

It is noted the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce also examined the problem of natural gas curtailments from the standpoint of possible producer delays in supplying interstate pipelines. Based on its investigation, together with evidence presented at public hearings on June 9, 13, 26, and 27, 1975, that subcommittee heard testimony alleging these delays may have resulted from either negligence by the producers or a deliberate attempt to slow production in order to obtain a more favorable price.

This testimony, together with evidence of possible industry under-reporting of reserves, tends to indicate much closer scrutiny by the FPC and FEA is essential to insure that the public receives adequate natural gas supplies. In addition, these agencies should take affirmative action through the institution of litigation in Federal courts to compel natural gas producers to meet their legal requirements under the Natural Gas Act, contracts, and certificates of public convenience and necessity to deliver gas to the consuming public if evidence exists that such producers are failing to meet such legal requirements.

V. SUMMARY OF REPORT

The Committee on Government Operations through its Conservation, Energy, and Natural Resources Subcommittee has examined the issue of a natural gas shortage impending for the winter heating season of 1975-76 and has assessed the state of Federal preparedness to deal with that emergency.

Natural gas, consumed by 140 million Americans and necessary to the functioning of over one-half of the Nation's industry, is key to the well-being of the Nation. As demand for and consumption of natural gas has been increasing, supplies have been decreasing. Since 1970, curtailments of firm service (that service to be supplied without interruption under contracts) have increased each year. Curtailments for 1975-76 are projected by the Federal Power Commission to reach nearly 3 trillion cubic feet. This year's curtailments will be 45 percent greater than in the previous year and will affect many industries, especially in the Midwest and on the eastern seaboard. For the first time curtailments might reach residential users.

Alternate sources of fuel; namely, propane, butane, liquefied natural gas (LNG), and substitute natural gas (SNG) will apparently not be readily available for a variety of reasons.

A number of States and communities will be especially hard hit by the natural gas shortage this winter. Among the States:

Pennsylvania faces high risk of widespread unemployment, especially in glass, aluminum, automotive parts, and cement industries;

New York despite careful and comprehensive contingency planning, faces what it expects to be its worst year;

Ohio with a 60-percent shortfall of natural gas expected over the coming winter sees further widespread industry closing and unemployment and in the eyes of its Governor an "unprecedented crisis";

Kentucky faces the alarming prospect of a 100-percent curtailment of natural gas to its industries embracing 135 manufacturing companies and affecting at least 30,000 industrial jobs;

West Virginia anticipates a 60-percent curtailment which may necessitate drastic relocation of population and industry.

New Jersey expects a 3 billion cubic foot shortfall of natural gas over the 1975-76 winter which will result in a 60-percent curtailment for industrial users and could affect between 15,000 and 20,000 jobs.

Under a variety of statutes and Executive orders, a number of Federal agencies are charged with natural gas emergency preparedness responsibilities. These include the Federal Energy Administration, the General Services Administration, the Department of the Interior, the Federal Power Commission, the Energy Resources Council, and others. The ERC has been charged with leading and coordinating Federal efforts to deal with the gas shortage emergency and is operating through an interagency task force which is under the leadership of the FEA. The task force is gathering data and analyzing policy options. No policies or contingency plans have been developed. The data-gathering operation is encountering many problems.

VI. FINDINGS

Federal agencies are not prepared at this time with advance plans to cope with adverse effects on employment and industrial production even in areas they know now will be hard hit. There is too much of a "wait-and-see" attitude.

Natural gas is increasingly in demand and has become increasingly scarce.

Natural gas curtailments over the winter of 1975-76 will create emergency situations affecting many industries, especially in the Midwest and East.

Natural gas emergency preparedness responsibilities are dispersed throughout the executive branch and are often duplicative.

Coordination of emergency preparedness among the executive branch agencies is haphazard and often ad hoc.

(26)

VII. RECOMMENDATIONS

In view of the foregoing, the House Committee on Government Operations recommends the following:

1. All cognizant Federal departments and agencies should move immediately on a top-priority basis to take whatever steps are necessary within the scope of their legal authority to prevent or alleviate the impact of this coming winter's natural gas shortage on those States and areas expected to suffer most. If necessary, the President should take preventive action under the criteria of the Defense Production Act and other legal authorities to declare certain regions as potential economic disaster areas before the fact and marshal the Federal Government's resources accordingly.

2. Emergency preparedness authorities should be clarified as they relate to future natural gas emergencies.

3. Departments and agencies with major responsibilities relating to natural gas should prepare memorandums of understanding or other documents delineating their respective duties which bear on natural gas emergencies.

4. Collection of data on natural gas supply and demand, availability of alternative fuels, and capability to use alternative fuels, together with assessment of impact of natural gas curtailments, should be accomplished on a continuing coordinated systematic and timely basis.

5. Because the natural gas emergency of 1975-76 will be a recurring problem, and because no effective emergency planning or coordinating mechanisms exist, and because neither the FPC nor the FEA or any other Federal agency has authority to take full necessary action in the face of a natural gas emergency, the President should propose and the Congress should give immediate consideration to legislation which would—

(a) Establish clear responsibility for preparing contingency plans for natural gas shortages and other natural gas emergencies;

(b) Establish clear responsibility for the coordination and focus of national efforts to deal with immediate and long-term shortages of natural gas; and

(c) Establish authorities to control the production, shipment, and distribution of natural gas on a coordinated national basis as necessary to deal with natural gas shortages.

6. The Federal Power Commission and the Federal Energy Administration should take appropriate action consistent with their emergency preparedness responsibilities, including litigation in Federal courts, if necessary, to compel natural gas producers to comply with the Natural Gas Act and regulations to deliver natural gas to consumers.

(27)

ADDITIONAL VIEWS OF HON. PAUL N. McCLOSKEY, JR.,
HON. ALAN STEELMAN, HON. EDWIN B. FORSYTHE,
HON. WILLIS D. GRADISON, JR., HON. ROBERT W. KAS-
TEN, JR., HON. JOHN W. WYDLER, HON. JOHN N. ERLIN-
BORN, HON. FRANK HORTON, HON. CLARENCE J.
BROWN, HON. SAM STEIGER, HON. JOEL PRITCHARD,
HON. GARRY BROWN, AND HON. CHARLES THONE

The additional views hereinafter set forth are offered with deep regret over the committee's failure to offer recommendations commensurate with the gravity of the emergency the report so graphically describes.

It is no longer enough for Congress to point the finger of blame; we have an obligation to the people of this Nation to propose answers to the critical problems we have identified. In this case, while the short-range answers are administrative, the long-range answers are congressional.

The report carefully documents the potential disaster of a hard winter in 1975-76 and the seriousness of the natural gas shortage which will result. Hundreds of industries may be forced to shut down or severely curtail their operations; millions of workers may be forced onto the unemployment rolls.

Clearly, an economic disaster is possible if the weather is unduly harsh. Even if we are blessed with a third straight mild winter, we face a 20-percent cutback in firm natural gas services, and a 73-percent cutback to interruptible customers, largely industrial.

In future years the major interstate pipelines predict that, based on their current reserve supply, volumes will decline from 69.7 percent of full capacity in 1973 to 52.1 percent by 1980. As this decline occurs, the resultant unit transportation cost is estimated to rise from 25.75 cents per mcf to 44.33 cents per mcf, a 72.2-percent increase to consumers because of diminishing supply. (For comparison, if all natural gas, new and old, were deregulated at the wellhead, the price to consumers is expected to rise only about 12 percent per year over the next 5 years.)

Further cause for alarm is the fact that natural gas production, which had remained about constant at 22 trillion cubic feet (tcf) for 4 years, fell almost 6 percent last year. The FEA's Project Independence report projects a 40-percent decline in production by 1985 unless supply trends are reversed.

Thus, the emergency is not only upon us, but will continue to grow more serious as the years pass by. Congressional response must be a top priority.

It will be noted, however, that of the report's five recommendations, all five urge prompt action by the administration, not the Congress.

Only in the fifth recommendation is there even mention of congressional action, and this is recommended only after the President proposes a course of legislative action.

Since when does the Congress, or should the Congress, wait for the President to propose solutions to crisis situations?

THE BASIC CAUSE OF THE SHORTAGE

For some years the artificially low price for interstate natural gas has created three artificial distortions in the market:

- (1) It has created an inordinately high demand for the most limited of our fossil fuels;
- (2) It has diverted increasing percentages of natural gas into the intrastate markets in the relatively few producing states; and
- (3) It has depressed the exploration for new natural gas which must be sold in interstate commerce (offshore source).

All three of these results have directly contributed to the shortage expected next winter.

There may be a fourth result as well—the deliberate capping of wells or withholding of natural gas from the interstate market by producers. The evidence is not yet clear on this because the FPC has admittedly been delinquent in its pursuit of the facts.

(1) *The artificially low price*

By May of 1974, for example, in Btu equivalent, U.S. fossil fuel power plants were paying only 44 cents per million Btu of natural gas, compared with \$1.88, four times as much, for fuel oil.

The current average price paid by interstate pipelines for natural gas is 30 cents per thousand cubic feet (mcf) which is equivalent to paying \$1.80 for a barrel of oil. This is less than one-sixth of the OPEC price for imported oil, and approximately one-fifth of the average price for new domestic oil.

Is there any wonder that the Government price controls have created an inordinate demand for natural gas and thus exacerbated next winter's crisis situation which this report describes?

(2) *The diversion of gas from the interstate market*

In addition to the stimulation of excess demand, the FPC's price controls have also artificially diverted gas from the interstate market to local intrastate purchasers who can pay unregulated competitive market price. The average price paid for new intrastate gas during 1974 was between 83 and 90 cents, as against the FPC-regulated price of 50 cents for gas sold interstate. In Texas, intrastate natural gas prices have gone over \$2 on occasion.

This price differential has caused increased drilling for gas which can be sold intrastate, and has correspondingly depressed the search for offshore gas which by law must be sold interstate.

(3) *The inhibitions on drilling for new gas*

Testimony of FPC Chairman Nassikas on July 14¹ indicated that from 1971 to 1974, onshore drilling well footage has increased 82 percent while offshore footage dropped 20 percent.

This is consistent with the history of continuing decline in new field discoveries, dating from the virtual freezing of wellhead prices by the FPC which began in the early sixties.

¹ Before the House Interstate Commerce Committee, Subcommittee on Oversight and Investigation.

Under these circumstances it is understandable that little new capital will be invested, or equipment committed, in the search for offshore gas when such greater potential profits are available from new oil discoveries (or virtually any other commercial activity for that matter).

All of these problems flow directly from the artificially low price for gas for which the FPC claims cannot be increased without congressional action.

Therefore, it is clear that the congressional action which the committee concedes is urgently needed² must include the deregulation of new natural gas, or at least permission to the FPC to increase prices gradually on other than a cost basis.

This action—the deregulation of new interstate, wellhead prices—will gradually raise consumer prices. But the alternative is higher and higher prices—for less and less domestic gas—as the pipelines become more and more empty. While we may also owe an obligation to tax any “windfall” profits, and/or to ensure that “windfalls” are reinvested in domestic energy resource development, it would be unconscionable to continue to force price controls on new natural gas when we concede such controls to be a primary cause of the new emergency we have pinpointed in this report.

None of us wish to see the public “ripped off” by an oil and gas industry intent solely on its own profit margins. But on the other hand, Congress has specifically voted in the recent past to remove price control authority in other industries. We recognized that conservation of energy is now a primary new national goal when we passed the oil imports quotas of the Ways and Means Committee energy bill. Price controls on energy are certainly not the way to promote conservation of energy.

We know that deregulation of new natural gas means higher prices. It means that residential consumers may well pay \$12 per year more each year for the next 5 or 6 years, and as much as \$65 more for natural gas each year 5 years from now. (From an average of \$180 per year in 1975 to \$245 per year in 1980.) Costs of goods produced by industries using natural gas will also rise.

And yet this is the basic problem which faces us across the whole spectrum of the energy crisis. The inflationary impact of deregulation is less severe than the impact on jobs if we do not deregulate.

As the report states:

“The plight of American industry cannot be understated * * * if it is also true that the bulk of the affected industries are labor intensive * * * massive unemployment caused by shutdowns or reduced workloads can be expected to follow any such decision to cease or limit operations.”

² We do not contest the conclusion of FPC's general counsel that legislation is necessary to permit FPC to deregulate natural gas prices. The courts have consistently adopted the view that unilateral FPC deregulation of producer price, regulation of producer prices solely on the basis of market price, or regulation of prices without cost support would be inconsistent with the Natural Gas Act and contrary to law. In *F.P.C. v. Texaco, Inc.* (417 U.S. 380 [1974]), the Supreme Court said:

“In concluding that the Commission lacks the authority to place exclusive reliance on market prices, we bow to our perception of legislative intent. It may be, as some economists have persuasively argued, that the assumptions of the 1930's about the competitive structure of the natural gas industry, if true then, are no longer true today. It may also be that control of prices, in this industry, in a time of shortage, if such there be, is counterproductive to the interests of the consumer in increasing the production of natural gas. It is not the Court's role, however, to overturn congressional assumptions embedded into the framework of regulation established by the Act. This is a proper task for the legislature where the public interest may be considered from the multifaceted points of view of the representational process.” (417 U.S. at 400.)

The problem is particularly acute in New Jersey, North Carolina, Ohio, Virginia, California, Kentucky, New York, Pennsylvania, and West Virginia—the Middle Atlantic States and California.

Under these circumstances, with unemployment already over 9 percent, it seems to us that it is incumbent on the committee to take a position on deregulating new natural gas and removing the impediment to new supplies.

At a minimum, we must act to immediately allow the FPC to gradually increase new natural gas prices to higher levels other than on a cost basis.

It is the Congress, as much as the President, to whom our people are turning for leadership. We have thus far failed in the area of energy taxes and a tax on gas-guzzling automobiles. We do less than we should when we recognize the problem as serious as next winter's natural gas shortage, yet recommend nothing on the part of the only institution which can remove the cause of the problem.

We, therefore, urge that the appropriate House committee give this matter their most immediate and careful attention.

PAUL N. McCLOSKEY, JR.
ALAN STEELMAN
EDWIN B. FORSYTHE
WILLIS D. GRADISON, JR.
ROBERT W. KASTEN, JR.
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CHARLES THONE.

ADDITIONAL VIEWS OF HON. JOHN E. MOSS, BELLA ABZUG, ANDREW MAGUIRE, ANTHONY MOFFETT, MICHAEL J. HARRINGTON, JOHN CONYERS, JR., JOHN L. BURTON, DAVID W. EVANS, AND LEO J. RYAN

The Committee's report cites Federal Power Commission data that interstate gas pipelines have curtailed firm contract gas deliveries since November 1970, that their curtailments have steadily increased each year since then, and that their curtailments for the 1975-1976 year, estimated at almost three trillion cubic feet, will be 45 percent greater than the 1974-1975 year curtailments.

We concur with the Committee's view (p. 2) that such curtailment indicates a "budding National economic disaster" with possibly catastrophic consequences for many regions of the nation. The Committee's report performs a useful service in documenting the experience and predicaments of some of these regions (e.g., Pennsylvania, North Carolina, New York, Ohio, Kentucky, West Virginia, New Jersey), and in discussing the existing Federal laws and agencies which might be involved in dealing with this impending crisis.

We also concur with the Committee's conclusion that the Federal Government's ability to deal with this problem is gravely hampered by having inadequate information about gas reserves, and that much of that inadequacy results from the government's reliance on conflicting data supplied by "industry groups, who tend upon occasion to overstate the severity of the case." (p. 21)

The problem is evident. However, the Committee's report does not provide enough aid on how the Nation should deal with the problem. The report makes general recommendations (p. 26) that the Federal government "take whatever steps are necessary to prevent or alleviate the impact of this winter's natural gas shortage"—that "emergency preparedness authorities should be clarified"—that agencies should prepare "memorandums of understanding or other documents delineating their respective duties" in emergencies—that data be collected "on a continued systematic and timely basis" concerning gas supply and demand, alternative fuels, and impacts of gas curtailment—that "the President should propose and the Congress should give immediate consideration to legislation" to establish responsibility for preparing contingency plans in gas emergencies, for "coordination and focus of national efforts to deal with immediate and long-term" gas shortages, and to control production, shipment and distribution of natural gas.

But these generalizations do not provide enough guidance, or enough specific suggestions or recommendations.

In part, this lack of specificity resulted from the limited nature of the Committee's hearings. There were only two days of hearings on this extraordinarily complex subject of the causes and effects of the natural gas shortages and curtailments, and the government's role in dealing

with these problems. The only witnesses at those hearings were representatives of four government agencies (Federal Power Commission, Federal Energy Administration, Interior Department, and General Services Administration; the Secretary of Commerce also filed a written statement). No testimony was received from consumers of gas, including the industrial consumers (such as electric utilities and fertilizer, textile, glass, paper, plastic, and other manufacturers) who are vitally affected by gas curtailment, or from state regulatory or environmental agencies, or other interested persons.

In view of the Committee's finding (p. 25) that "Federal agencies are not prepared at this time with advance plans to cope with adverse effects on employment and industrial production" resulting from gas curtailments, it should not be surprising that the government witnesses, whose agencies are criticized in the report, would provide little basis for specific recommendations to deal with the curtailment problem. We would have preferred the Committee hold more extensive hearings to obtain the views of all interested segments of the public.

An even more serious deficiency, however, is the possible implication in the Committee's report (pp. 2, 3, 4, and 7) that the primary solution to these problems revolves around the question of deregulation of the interstate gas market. The report does not take adequate notice of the drastic economic effects that would result from deregulating the prices of interstate natural gas, and does not mention many other alternatives which could substantially "prevent or alleviate the impact" of natural gas shortages, both in the near term and in the long term. Moreover, in citing witnesses' "persistent theme . . . Congress must deregulate the price of new natural gas at the wellhead," (p. 2) the Committee report admittedly relies only on advice from "executive branch witnesses" (who, of course, would parrot the President's enthusiastic support for deregulation) and the "natural gas industry" (which would benefit financially from deregulation of gas prices). There was no input from consumers, other industry, state and local public agencies, etc. The result of these omissions is a report which, while admitting that "deregulation is not at issue in regard to this winter's natural gas shortage and thus it [the Committee] does not deal with that subject in this report," nevertheless leaves the possible impression that deregulation is a primary pathway to get adequate gas supplies.

There are, indeed, many alternatives which must be carefully considered and investigated in order to tackle the problems of gas shortages and curtailments adequately and in the public interest:

1. At present, the Federal Power Commission regulates the interstate, but not intrastate, sales of natural gas. In 1973 only 53.5 percent of all domestic gas production was sold on the interstate market, the remainder being unregulated intrastate sales at substantially higher prices than for gas dedicated to the interstate market. Producers prefer to sell gas in the unregulated intrastate market. The curtailment problem primarily affects interstate gas. Thus, if intrastate, as well as interstate, gas were regulated, the present price disparity between the interstate and intrastate markets would disappear and more gas would become available to ease the problems of the consumers who are now dependent on present interstate gas. The Committee report did not mention this alternative or its effects on the interstate and intrastate markets.

2. We commend the Committee for noting in its report that recent investigations by the Oversight and Investigations Subcommittee of the House Interstate and Foreign Commerce Committee have revealed that in several cases gas producers may have deliberately or negligently delayed gas production in order to increase the pressure for deregulation or to obtain increased gas prices. In addition, in May 1975, the Bureau of Competition of the Federal Trade Commission recommended legal action against eleven natural gas producers and the American Gas Association for concertedly under-reporting natural gas reserves, apparently for the same purpose.

The Committee's report recommended that FPC and FEA take legal action to compel gas producers to comply with their obligations to deliver natural gas to consumers. We concur. However, we could add that if such efforts do not produce prompt success, the Federal government should proceed to authorize a Federal Oil and Gas Corporation to explore, develop, and produce natural gas and oil from publicly-owned lands. Such a public corporation would help provide needed energy supplies, stimulate competition, and provide the public with actual knowledge of the costs of producing oil and gas so that public policy could be geared to the nation's interest, including a yardstick for judging the performance and pricing of the private oil and gas companies.

3. The Committee's report notes that opponents of deregulation of natural gas prices fear that deregulation will result in disaster for the consumers and enormous windfalls for the gas producers. We share that fear.

Furthermore, we feel it is essential to indicate the enormity of the economic impact that would result from deregulation of gas prices. According to a study by the Library of Congress ("Economic Impact Report on Deregulation of Natural Gas", November 5, 1974), the additional cost resulting from deregulation of gas prices would be \$75.6 billion over the six years following deregulation and \$17.7 billion annually thereafter. These enormous costs, plus their ripple effects as they permeate through the economy, will fuel the fires of inflation and bring economic hardship to large numbers of our people.

Support for deregulation is based on the assumption that deregulation will enable the market mechanism to bring about greater gas production. However, recent experience with both oil and gas price increases casts doubt on the assumption. Although the price of "new oil" (oil developed after May 1972) has been unregulated and is now almost triple the price of "oil oil," production has declined rather than increased. Similarly, price increases allowed by FPC for regulated gas sales (from 18 cents per MCF to 51 cents per MCF between 1969 and 1975) have not resulted in increased gas production. Thus, price incentive alone may have, at best, only a limited impact on gas production. Furthermore, we note that the FEA's Project Independence Report, on the assumption that deregulation will occur, estimated that gas production in 1985 would reach 19.114 trillion cubic feet if the price is 80 cents per MCF, and 19.141 trillion cubic feet—i.e., virtually the same—if the price is \$2.00 per MCF. Final Task Force Report—Natural Gas, November 1974, p. xii.

4. The FPC has issued a regulation (18 C.F.R. 2.78; Docket 469, Orders 467, 467-A, 467-B, 467-C) which establishes nine priorities-of-service categories defining which types of customers would have

their gas service curtailed by the interstate pipelines that are subject to FPC jurisdiction. These priority categories range from the largest industrial and utility uses for boiler fuel purchased under interruptible contracts as the lowest priority, through smaller-scale industrial interruptible and larger scale firm sales, to feedstock and process uses in industry, and finally, as the highest priority, to residential and small commercial uses. Many of the gas pipelines have preferred "pro-rata" curtailment, which would curtail gas deliveries of each customer of the pipeline by a percentage equal to the percent of the shortage on the pipeline system as a whole, rather than in accordance with the end-uses to which the customer puts the gas. Pro-rata plans have certain advantages over end-use plans, as follows: They are easier to administer since they do not require detailed and subjective information about end-uses needed to determine the allocations among customers. They do not lead to all the industry in one town being curtailed because it is low priority, while all the industry in another town is served. They encourage conservation, because any gas saved by a customer can be put to his own lower priority uses, rather than being allocated to higher priority uses of another customer who perhaps did not conserve as fastidiously. On the other hand, end-use plans do not permit the continuance of wasteful uses in one area while essential uses are discontinued in another.

End-use curtailment plans are frequently based on inaccurate information because the FPC's authority does not extend beyond the pipeline's sale to the distributor. Thus, FPC's priorities for the pipeline's curtailment is based on usage of customers over whom it has no jurisdiction. Moreover, the FPC's categories make distinctions between interruptible and firm contracts. However, in some cases, schools and hospitals have interruptible contracts, while power companies burning the gas as boiler fuel have firm contracts. In addition, the end-use plans tend to freeze the gas market in current usage patterns, denying gas service to new high-priority customers and continuing it to low-priority existing customers.

The Committee's report does not consider the matter of revising the FPC's present priority-of-service regulation to "prevent or alleviate the impact" of natural gas shortages.

5. Similarly, consideration of methods to conserve gas by preventing the waste or the wasteful use of natural gas is important. Some examples of such methods are as follows:

(i) The Energy Bill now being debated on the House Floor (H.R. 7014, Energy Conservation and Oil Policy Act of 1975) contains a section (605) which would authorize the Federal Energy Administrator, under certain conditions, to prohibit any power plant from burning natural gas as boiler fuel. Enactment of this provision could result in saving large quantities of gas.

(ii) Until last year, the Interior Department allowed its oil and gas lessees to flare or vent natural gas without paying any royalty thereon. This, of course, tended to encourage such wasteful flaring or venting. However, upon this Committee's request, the Department last year began requiring royalty payments for such gas from its lessees on the Outer Continental Shelf. H. Rept. 93-1396, *Our Threatened Environment: Florida and the Gulf of Mexico*, pp. 78-80 (Oct. 1, 1974). In December 1974, at this Com-

mittee's urging, the Interior Department extended this requirement to its onshore lessees. These royalty requirements have produced royalties on such flared or vented gas as follows:

	Outer Continental Shelf		Onshore Federal leases	
	Amount gas flared or vented (million cubic feet)	Royalties	Amount gas flared or vented (million cubic feet)	Royalties
June-December 1974.....	14, 568, 768	\$602, 715	26, 313	\$1, 168
January-March 1975.....	4, 747, 826	222, 255	1, 174, 767	44, 231
Total, June 1974 to March 1975.....	19, 316, 594	824, 970	1, 201, 080	45, 399

These requirements have stimulated the producers to prevent such wasteful losses of gas. The Interior Department has advised that the amount of offshore gas flared has been reduced by more than 50 percent during the last year and that an additional 25 percent reduction is *expected* during the next year by the installation of additional compressor facilities which have been on order for some time.

(iii) Very substantial amounts of gas could be saved by vigorous efforts, by both government and the gas companies, to educate the public about the urgency of conserving gas. Such voluntary conservation efforts were highly effective to save motor fuel during the Arab oil embargo and to reduce electric usage on occasions of threatened electric power brownouts.

(iv) According to this Committee's report of last year ("Conservation and Efficient Use of Energy," H. Rept. 93-1635, December 18, 1974, p. 29), we could achieve nearly 0.4 percent reduction in the total U.S. consumption of natural gas simply by ending the use of gas for ornamental lighting.

In these and other significant ways the Federal government could, by regulatory orders and by stimulating voluntary conservation, encourage the reduction of waste and wasteful use of natural gas and thereby help to "prevent and alleviate the impact" of natural gas shortages.

6. Still another way in which the Federal Government could help reduce the demand for natural gas and thereby "prevent and alleviate the impact" of natural gas shortages is by encouraging the conservation of gas now inefficiently used for heating. This could be done by assisting owners of existing industrial, commercial and residential buildings to install ceiling and wall insulation, storm windows, caulking and weatherstripping; and by encouraging states and localities to modify their building codes in accordance with energy conservation standards to economize on fuel consumption in new residential, commercial, industrial and public buildings. A substantial step toward achieving these objectives is being taken in the bill which the House Banking, Currency and Housing Committee favorably reported this week. H.R. 8650, Energy Conservation in Buildings Act of 1975, House Report 94-377. This bill would achieve these purposes by authorizing appropriations of \$165 million to assist elderly and low-

income persons to insulate their homes, and \$10 million to help the states and localities develop energy conservation standards and building codes. These programs will significantly reduce present consumption of gas and certainly should be considered in any discussion of whether deregulation of natural gas is essential to "prevent and alleviate the impact" of gas shortages. We would have preferred that the Committee's report discuss this matter.

7. The Committee's report has a section on "Fuel Alternatives and Policy Options" (pp. 6-7) which reviews the general availability of alternate fuels (propane, butane, liquified natural gas (LNG), fuel oil, and synthetic natural gas (SNG) from coal or liquid hydrocarbons) as substitutes for natural gas, and the availability of standby equipment to shift from oil or coal. The report concludes that industry's ability to shift from natural gas to alternative fuels "appears to be limited." The Committee's report, however, makes no recommendations for changing the situation, perhaps because the report focuses on the near-term potential crisis that could result from a gas shortage this coming winter.

It is true that it would take more than a few months to substantially increase the supply of alternative fuels and the equipment needed to shift them. But even the most ardent proponents of deregulation admit that deregulation of gas prices would not result in substantial new gas production for a considerable period of time. In fact, the report quotes Secretary of Commerce Morton as saying: "... deregulation of new gas is not a solution which will solve the problem in the near term—specifically this coming winter." (p. 2). Hence, any consideration of deregulation of gas should also consider the potential for increasing the supply of alternative fuels and there should be vigorous efforts to increase such supply.

For example, coal gasification technology has been available for years. The Lurgi fixed-bed gasification process, which is the most advanced development, has been commercially used in at least a dozen plants in Europe for many years, producing gas with low, medium, and high BTU. Coal liquefaction provided nearly all the gasoline and oil used by the Germans during most of World War II. The demonstration plants operated by the U.S. Bureau of Mines after World War II significantly advanced the technology and economic viability of coal liquefaction and gasification until the Bureau's program was dismantled shortly after the Eisenhower Administration took office in 1953. The SASOL plant in South Africa has since 1956 utilized coal gasification methods to produce synthetic fuels and chemicals commercially.

Increased emphasis on and encouragement of coal gasification could decrease its unit costs. Hence, the establishment of large-scale commercial coal gasification plants in the United States would, in light of the increasing costs for oil and gas, certainly become competitive, help to end our dependence on foreign oil, and, by removing sulphur in the gasification process, enable us to efficiently utilize our high sulphur coals which are now disfavored because of their air pollution potential. Eastern coal fields, with abundant water and coal, could become the basis of a great coal gasification industry supplying large quantities of synthetic gas to supplement our nation's supply of natural gas. These potentialities certainly deserve examination in connection with any consideration of deregulating natural gas as a method of "preventing or alleviating the impact" of natural gas shortages.

In addition, the Committee's report does not examine the potential for reducing industrial demand for natural gas. The report mentions (p. 6) that the petrochemical industry draws heavily on gas (and its derivatives, propane and butane), but makes no recommendations for reducing that demand. The largest-volume petrochemical building block is ethylene, of which more than 22 billion pounds were produced in 1973 in the United States. It is made from natural gas liquids (80 percent) or petroleum fractions such as naphtha and gas oil (20 percent), by pyrolysis or cracking. Over 40 percent goes into polyethylene plastics. Yet less than a quarter century ago, acetylene, derived from coal, was the principal organic chemical feedstock in both the United States and Europe. Acetylene use has drastically declined since then, largely because making ethylene from gas or oil became cheaper than making acetylene from coal. But this is not a static situation. Increased research and development efforts to reduce the unit costs of developing acetylene from coal, along with the rising price levels of oil and gas, could result in decreasing the demand for chemical materials derived from gas and thus reduce the potential for gas shortages. In considering ways to deal with the gas shortage, the Committee's report might have examined these and similar methods of reducing gas demand, and might have made recommendations to achieve them, rather than having the possible implication that deregulation of gas is the primary method to deal with the shortage problem.

CONCLUSION

For these reasons, we, the undersigned members of the Committee, believe that the Committee's report (a) renders a useful service in focusing attention on the potential gas shortage crisis next winter; (b) provides less aid than it could toward preventing and alleviating the impact of that possible crisis; and (c) places too much emphasis on deregulation of gas prices as a principal method of avoiding such impact and unfortunately ignores the many other alternatives that could ease or eliminate the natural gas shortage with much less economic detriment to the people of our country.

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September 10, 1975

Office of the White House Press Secretary

THE WHITE HOUSEFACT SHEET

The Administration submitted legislation to the Congress today to cope with expected natural gas shortages this winter and to assure the continued competitive viability of independent retail gasoline dealers. In addition, the Administration released letters to the Chairmen of the Senate Finance and House Ways and Means Committees requesting special subsidies for farmers and small and independent refiners in the event of sudden decontrol.

BACKGROUNDNatural Gas Situation

- Natural gas demand has exceeded supplies by an increasing amount in recent years and has resulted in growing shortages, or curtailments of service. In 1970, curtailments were 0.1 trillion cubic feet (Tcf) or less than 1 percent of consumption. For 1975, they are forecast to increase to 2.9 Tcf (or 45 percent greater than last year's curtailments) or about 15 percent of consumption.
- The economic impacts of natural gas shortages are concentrated in selected states, depending upon an individual pipeline's supply situation. Economic impacts will occur in those industries where alternate fuels are unavailable or cannot be used.

Independent Retail Gasoline Dealers

- Much of the retail marketing of motor and home heating fuels is conducted by independent small businessmen, in a traditionally changing and fragmented retail industry.
- Since 1973, with the mandatory controls under the Emergency Petroleum Allocation Act, relationships between independent retail marketers of gasoline and their suppliers have been governed by the mandatory allocation program.
- With the expiration of mandatory allocation controls a simpler, less pervasive Federal authority is necessary to prevent any coercive actions between suppliers and retailers.

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Natural Gas

HIGHLIGHTS OF TODAY'S LEGISLATION

Natural Gas Emergency Standby Act of 1975

The Natural Gas Emergency Standby Act of 1975 contains four major provisions:

-- Interstate Pipeline Emergency Natural Gas Purchases

Amends the Natural Gas Act to allow interstate pipelines with insufficient natural gas to meet the requirements of high priority customers to purchase natural gas at market prices from intrastate sources or from other interstate pipelines on an emergency basis for a period of up to 180 days.

-- Curtailed Consumers Emergency Natural Gas Purchases

Amends the Natural Gas Act to allow high priority end-use consumers of natural gas who are expected to experience curtailments to purchase uncommitted gas directly from intrastate sources at market prices.

-- Emergency Energy Supply and Environmental Coordination Act Amendments

Extends the recently expired authority to require electric utilities and major industrial boiler conversions from natural gas or oil to coal. Further, it provides additional authority to require conversion from gas to oil where coal conversion is not practicable.

-- Propane Standby Allocation

Provides authority to allocate and establish reasonable prices for propane during periods of actual or threatened severe shortages of natural gas.

Gasoline Dealers Protection Act of 1975

This legislation would enhance competition by supplementing the antitrust laws (in the fashion of the existing Automobile Dealers' Day in Court Act). It would apply to business conduct between retailers and refiners and distributors of gasoline, diesel and home heating fuels. The legislation would:

-- Prohibit a refiner or distributor from canceling, failing to renew or otherwise terminating a petroleum products franchise unless he provides 90 days notice to the retail dealer affected, except for good cause.

-- Permit a retailer to bring a civil action for treble damages or injunctive relief in a federal district court against any refiner or distributor which fails to act in "good faith" in performing or complying with the terms of the franchise, or in terminating, canceling or failing to renew the franchise with the dealer.

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OTHER ACTIONS ANNOUNCED TODAY

The Administration also released today letters from Treasury Secretary William E. Simon to the Chairmen of the Senate Finance and House Ways and Means Committees in which the Administration requested that special subsidies be provided for farmers and small and independent refiners in the event of sudden and complete oil price decontrol.

Farmers are generally experiencing increased production costs. To avoid any added inflationary pressures as a result of decontrol, the Treasury Secretary requested that the Committees consider a direct tax rebate to farmers to compensate for increased fuel costs. The rebate of approximately 6¢ per gallon would be funded by revenues from a windfall profits tax.

Small and independent refiners have received subsidies since 1959 under the Mandatory Oil Import Program, and subsequently under the Old Oil Entitlements Program. The entitlements program would terminate with the expiration of price controls. The actions requested today by Secretary Simon would maintain for a year the current subsidy which has been provided under the entitlements program, and would gradually phase out the subsidy over three years. This will assure a gradual transition for small and independent refiners from controls to the free market.

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