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FEDERAL ENERGY ADMINISTRATION

November 18, 1975

Date:

Reply to: Paul Cyr, Director for Congressional Affairs
 Att: of:

Subject: H.R. 9464 and other Natural Gas legislation

To: Distribution List A

The Energy and Power Subcommittee of the House Commerce Committee continued to markup emergency natural gas legislation. There is a conflict within the Committee as to the parameters of the legislation. The Majority of the Members, including Mr. Dingell, the Chairman, desire to address only short-term solutions to the anticipated curtailments of natural gas this winter. Their vehicle for achieving this end, is a substitute for H.R. 9464, offered by Mr. Dingell. The Minority members and Mr. Krueger (D-Tex.) wish to find some long-range answers to the problems, which would include a price increase for new natural gas. Therefore, Mr. Krueger also has a proposed substitute for H.R. 9464.

To complicate matters, Mr. Brown, the senior Republican on the Subcommittee also introduced a substitute amendment, which addresses the long-term aspects. Since Mr. Dingell is a player as well as the referee of the proceedings, it was easy for him to rule both the Brown substitute and the Krueger substitute as non-germain to the Dingell substitute, thereby setting the stage for a showdown vote on his amendment. If his amendment is voted down, the only remaining vehicle for markup would be the original H.R. 9464, which is in essence the Pearson-Bentsen bill introduced and amended in the Senate.

At that point Mr. Krueger's amendment, which parallels the final Senate legislation could be offered again as a substitute. The Subcommittee has not progressed in its actual markup, because these parliamentary procedures have not yet resulted in a version of H.R. 9464 that can be amended.

Debate will continue through the week.

Members present:

Democrat

Mr. Dingell
 Mr. Wirth
 Mr. Sharp
 Mr. Brodhead
 Mr. Murphy

Mr. Eckhardt
 Mr. Ottinger
 Mr. Krueger
 Mr. Moffet
 Mr. Maguire

Republican

Mr. Brown
 Mr. Broyhill
 Mr. Moorhead
 Mr. Heinz



For additional information contact Larry Gallo, 961-7281.

FEDERAL ENERGY ADMINISTRATION

FILE
NATURAL
GAS

NOV 20 1975

Date: Alvin A. Cook, Jr.
Reply to Deputy Assistant Administrator
Action of: for Economic Impact (Acting)
Subject: Preliminary Estimates of Pearson-Bentsen Bill
and Short-Term Emergencies Provisions
To: James Rubin
Executive Director and Vice-Chairman
for Natural Gas Task Force

You requested information on our estimates of production under the Pearson-Bentsen Bill and the anticipated impacts of the Dingell Bill. It should be emphasized that these estimates for both the short and the long run are preliminary. We are presently refining our analysis in order to incorporate the more complicated provisions that are contained in the more recent legislative proposals.

Pearson-Bentsen. Production under the Bill has been estimated by assuming that the unregulated price for new onshore gas rises to \$1.50/mcf throughout the 1976-85 period. As you know, this bill is very unclear about the controlled price for OCS gas from the Federal domain. As a result, we are reporting two estimates: one assuming a 70¢/mcf ceiling for new OCS gas and another assuming an 85¢/mcf limit. If the FPC continues to control these prices on a cost basis, the 70¢ ceiling is perhaps the more appropriate price level.

Preliminary Estimates of Gross Marketed Production
(Tcf) Under the Pearson-Bentsen Bill

	<u>1980</u>	<u>1985</u>
New OCS priced at 70¢/mcf	21.3	21.7
New OCS priced at 85¢/mcf	21.3	23.0

Dingell. The Dingell Bill affects the short term (this winter) rather than the long run. Although we have not completed our analysis of the specific provisions of the Dingell Bill, we do have some preliminary estimates of the



Emergency Sales Legislation

The effects of emergency sales legislation for the 1975-76 heating season have been estimated for two cases. Under the assumption of a tight intrastate market, the unregulated price rises rapidly as gas is extracted from the intrastate consumers (TIGHT MARKET). Under the assumptions of a saturated market, the increase in the unregulated price is much more moderate (SATURATED MARKET). These two cases provide a high and a low estimate for the potential effects of the legislation.



Impact of Emergency Sales Legislation

SUMMARY = REVENUES (\$ million)

	180-day Pipeline Purchase		Pipeline & End-User Purchase	
	<u>Saturated</u>	<u>Tight</u>	<u>Saturated</u>	<u>Tight</u>
Intrastate Market	200	580	240	740
Interstate Market	-175	-128	-71	10
Nation	25	452	169	750

Intrastate Market

Half-year Intrastate Sales	3700 bcf
Average End-User Price	\$.64/mcf
Demand Elasticity	
Tight Market	.15
Saturated Market	.45

<u>Results:</u>	Pipeline Purchase		Pipeline & End-User Purchase	
	<u>Saturated</u>	<u>Tight</u>	<u>Saturated</u>	<u>Tight</u>
Affected Volume (bcf)	250	250	325	325
Price Increase (\$/mcf)	.10	.29	.12	.37
Volume under new contracts				
--intrastate (bcf)	2000	2000	2000	2000
Increased Revenue (\$ million)	200	580	240	740

Interstate Market

Heating-season interstate sales	7600 bcf
Residential heating-season use per customer, 1974	83 mcf
Annual Residential Bill, 1974	\$172/yr
End-user Price for Alternative Fuels	\$ 2/mcf



<u>Results:</u>	<u>180-Day Pipeline Purchase</u>		<u>Pipeline & End-User Purchase</u>	
	<u>Saturated</u>	<u>Tight</u>	<u>Saturated</u>	<u>Tight</u>
Affected Volume (bcf)	250	250	325	325
Decreased Expenditures on Alternative Fuels (\$ million) ^{a/}	-500	-500	-500	-500
New Gas Price (\$/mcf)	1.30	1.49	1.32	1.57
Increased Gas Revenue (\$ million)	325	372	429	510
Net Revenue Change (\$ million)	-175	-128	-71	+10

Impact on Residential Gas Customers^{b/}

Cost increase (¢) per mcf	4.3	4.9	4.3	4.9
Cost increase (\$) per customer	3.57	4.07	3.57	4.07
Percent Impact per year	2.1	2.4	2.1	2.4

^{a/} End-user provision does not affect expenditures on alternative fuels because sales are allowed only in cases where other fuels cannot be substituted.

^{b/} End-user provision does not affect residential prices.

Important calculations:

$$(1) \text{ Intrastate price increase} = \left(\frac{Q}{3700} / n \right) \times .64$$

Where Q = the affected volume,
n = the intrastate demand elasticity

$$(2) \text{ Interstate price for new gas} = 1.20 + \text{price increase (calculation \#1)}$$



DINGELL SUBSTITUTE FOR H.R. 9464

Section by Section Analysis

Sec. 2. Purpose

- to establish temporary (to June 30, 1976) authorities for minimizing the impact of natural gas supply shortages on employment, food production, and the public health, welfare, and safety.

Sec. 3. Definitions

- principal definitions are:
 - essential user (Sec. 3(2)): as established by the FPC, a user without an available alternate fuel who needs gas to avoid impairing the public health, etc.
 - new natural gas (Sec. 3(6)): natural gas not committed by contract to interstate commerce prior to September 9, 1975, other than gas from the OCS.
 - distressed interstate pipeline (Sec. 3(9)): as established by the FPC, an interstate pipeline thought unlikely to obtain sufficient supply to service its essential users.
 - supply emergency period (Sec. 3(10)): the period from enactment to July 1, 1976.
 - national rate (Sec. 3(11)): as established by the FPC, the highest rate for interstate gas (now 52¢ per Mcf).

Sec. 4. Access by Distressed Interstate Pipelines to ^{New} Natural Gas

- FPC to designate distressed interstate pipelines, who ^{new} during the supply emergency period, may purchase gas at rates above the national rate (i.e., at intrastate rates) - such rates are deemed "just and reasonable" within the Natural Gas Act.



Sec. 5. Treatment of Rates or Charges in Excess of the National Rate

- rates for supply emergency gas in excess of the national rate to be surcharged to all users other than residential and small commercial users, and hence not fully rolled-in (Sec. 4(a)).
- distressed pipelines to certify on a weekly basis their supply and deliverability status (Sec. 4(b)) - distribution companies required to agree to surcharge accounting system for emergency gas to get gas in excess of bas volumes without the emergency gas (Sec. 4(d)).

Sec. 6. Relationship to the Natural Gas Act

- exempts emergency purchases from abandonment provisions, but not transportation provisions - emergency sales deemed not to result in interstate dedication of underlying reserves.

Sec. 7. Unenforceable Contract Provisions

- nullifies contract provisions prohibiting commingling of intra- and interstate gas.

Sec. 8. Pipeline Interconnections

- authorizes the FPC to require any pipeline to interconnect with any other pipeline - not limited to interstate pipelines.

Sec. 9. Penalties

- as established by the FPC, sets a civil penalty of \$10,000 per violation, with each day of a continuing violation a separate offense (Sec. 9(a)).
- for willful violations there are criminal sanctions (\$25,000 fine, 5 year imprisonment or both) (Sec. 9(b)).



Sec. 10. Enforcement

- gives Attorney General equitable relief powers, allows any person to bring a civil action.

Sec. 11. Rulemaking

- gives FPC rulemaking authority.

NATURAL GAS LEGISLATION PASSED BY THE SENATE OCTOBER 22, 1975

TITLE 1

This Title deals only with emergency authority for the upcoming winter - it generally expires April 4, 1976.

Principal provisions:

- allows curtailing interstate pipelines to purchase intrastate gas for a maximum of 180 days at a price not to exceed the highest price for any sale of gas in the state during June and July 1975 - transactions completely exempt from FPC jurisdiction (Sec. 104).
- extends until June 30, 1976, FEA authority under ESECA to order boiler fuel conversion by power plants and major fuel burning installations from gas or oil to coal, and adds the authority to order conversion from gas to oil (Sec. 105).
- extends the present Emergency Petroleum Act regulations with respect to propane and butane allocation and pricing (Sec. 106).
- allows curtailed high priority end-users to purchase gas at unregulated intrastate prices - FPC transportation certificate required (Sec. 107).

TITLE II

This Title amends The Natural Gas Act - it contains long-term authority, including deregulation of the wellhead price of new natural gas - it runs consecutively with Title I and thus commences at midnight, April 4, 1976.

The principal provisions:

- provides for deregulation of the wellhead price of "new natural gas" other than OCS new natural gas commencing April 5, 1976 (Sec. 203, 208/24).
- subjects new natural OCS gas to a phased deregulation expiring December 31, 1980 - in the interim (1975-1980), FPC directed to establish, and authorized periodically to modify, a national ceiling rate for OCS new natural gas (Sec. 208/24).
- New natural gas is defined to include gas sold or delivered in interstate commerce which is (a) first dedicated to interstate commerce on or after January 1, 1975, or (b) produced from a reservoir discovered on or after January 1, 1975, or produced on or after January 1, 1975, from wells which are extensions of previously discovered reservoirs (Sec. 204).
- new natural gas does not include new wells which are not extensions of reservoirs discovered prior to January 1, 1975, and does not include gas flowing under contracts expiring on or after that date.

- establishes a curtailment order of priorities and directs the FPC to put it into effect - highest priority for residential users, small users, and public health and safety users (e.g., hospitals) (Sec. 208/25(a)) - second priority for essential agricultural users (Sec. 208/25(a)) - third priority for essential industrial users (i.e., process and feedstock users) without regard to whether underlying contract is firm or interruptible (Sec. 208/25(b)).
- subjects SNG plants, the persons owning or operating them, and SNG sales and transportation to FPC jurisdiction - feedstock production and access specifically excluded (Sec. 208/26).
- mandates FPC prohibition of boiler fuel uses of natural gas not contracted for before January 1, 1975, unless alternate fuels (other than oil or propane) are unavailable (Sec. 208/27(a)).
 - boiler use contracted for before January 1, 1975, to be terminated at contract expiration or 12 years from enactment, which occurs first, unless alternate fuels are unavailable (Sec. 208/27(b)).
 - boiler fuel uses for ignition, start up, testing, flame stabilization, and alleviation of air quality emergencies are exempt from the boiler fuel prohibition (Sec. 208/27(f)).

- requires the Administrator, FEA, to prohibit residential gas usage which he determines to be solely for ornamental or decorative purposes and for which there is an installed electricity capability (Sec. 208/27(e)).
- requires interstate pipelines to have tariffs giving residential and small users priority for old (and therefore lower priced) natural gas (Sec. 208/28).
- requires the FPC to establish, and revise biennially, a national ceiling rate for old natural gas, which includes gas continuing in interstate commerce after expiration of a contract (Sec. 208/29).
 - provides a mandatory cost-based ratemaking guide, which includes both current and prospective costs and E&P incentives (Sec. 208/29).
- requires Interior to set MER production for all fields on Federal lands other than Naval Petroleum Reserves - requires Interior to include, in all oil and gas leases and contracts, a provision allowing Interior to order production at MER (Sec. 208/30).
- provides that Interior may sell U.S. royalty gas in emergency gas shortage situations (Sec. 208/31).

SECTION BY SECTION ANALYSIS

NATURAL GAS LEGISLATION PASSED BY THE SENATE OCTOBER 22, 1975

Title I

Section 101. Names Title as the "Natural Gas Emergency Standby Act of 1975".

Section 102. Sets forth the Congressional findings and purposes applicable to whole Title.

Section 103. Definitions.

Section 104. Amends section 7(c) of the Natural Gas Act to require the FPC to exempt from the provisions of the Natural Gas Act any activities, operations, facilities, or services relating to the transportation, sale and delivery, transfer, or exchange of non Outer Continental Shelf natural gas by an independent producer, a natural-gas company which transports natural gas in interstate commerce, a person who transports natural gas in other than interstate commerce, or a natural-gas distributing company to or with a natural-gas company which transports natural gas in interstate commerce which does not have or which may not have, sufficient natural gas to meet the requirements of its high priority consumers and which is curtailing during the heating season from November 1975 through March 1976 pursuant to a curtailment plan on file with the FPC. Exemptions are limited to 180 consecutive days, and the price cannot exceed the highest wellhead price at which natural gas was sold from June 1 through August 1, 1975 in the state in which the sale is made.

Section 105. (a) States the purpose of the section 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.

(b) and (c) Amends section 2 of the Energy Supply and Environmental Coordination Act of 1974 ("ESECA") to extend until June 30, 1976 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.

(d) Provides for compensation of any facility (for increased fuel costs) or transporter (for loss of revenue) affected by any order issued pursuant to the subsection. Such compensation is to be paid by the high priority users who benefit.

(e) Amends section 11(g)(2) of ESECA by extending the the expiration of Section 11 from June 30, 1975 to June 30, 1976.

(f) Exempts from this section any powerplant in existence on June 30, 1975 which for the 12 proceeding months before such date did not burn petroleum products and which the Administrator determines will be operated on natural gas only for the purpose of providing electric power which would otherwise be provided by baseload powerplants of the same electric power systems, but cannot be operated because of an air pollution emergency, an unanticipated equipment outage, or act of God.

Section 106. Extends the regulations promulgated under section 4 of the Emergency Petroleum Allocation Act of 1973 and the authority of the President under such Act, with respect to propane and butane, until April 4, 1976.

Section 107. (a) 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.

(b) Makes 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.

(c) Provides 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.

Section 108. Sets expiration date for whole Title of April 4, 1976.

Title II

Section 201. Names Title as the "Natural Gas Amendments of 1975."

Section 202. Redesignates sections and subsections.

Section 203. Removes FPC's authority, subject only to Section 24 of the Natural Gas Act, to regulate after April 4, 1976 the sale of new natural gas to a natural gas company for resale in interstate commerce but preserves the FPC's authority to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas, or (B) regulate sales for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce or by an affiliate thereof which transports natural gas in interstate commerce.

Section 204. Definitions. New natural gas is defined to include gas sold or delivered in interstate commerce (a) which is first dedicated to interstate commerce on or after January 1, 1975, or (b) produced from a reservoir discovered on or after January 1, 1975, or produced from wells initiated and completed in an extension of previously discovered reservoirs on or after January 1, 1975.

Section 205. (a) Amends section 4(a) of the Natural Gas Act by deeming just and reasonable the rates and charges of any natural-gas company for or connected with a contract for the sale of Outer Continental Shelf new natural gas not exceeding the applicable national ceiling of the FPC, and permits higher rates to provide special relief to meet unanticipated extraordinary expenses.

(b) Amends section 4(e) of the Natural Gas Act by prohibiting the FPC from (1) denying any rate or charge by any natural gas company for or connected with the purchase or sale of new natural gas except (A) when such rates or charges for Outer Continental Shelf new natural gas exceed the FPC's national ceiling or (B) where a natural gas company purchases gas from an affiliate or produces it from its own properties, to the extent that the rates and charges therefor exceed the current rates and charges paid to nonaffiliates for comparable sales; or (2) ordering a decrease in any rate or charge for the sale or transfer of old natural gas by a natural gas company if previously having been determined to be just and reasonable.

Section 206. Amends Section 5(a) of the Natural Gas Act with a provision identical to Section 205(b)'s amendment of Section 4(e).

Section 207. Adds to Section 14 of the Natural Gas Act a new subsection which directs the FPC to:

- (a) Conduct studies of the production gathering, storage, transportation, distribution, and sale of natural, artificial, or synthetic gas.
- (b) Secure and keep current information regarding the ownership, operation, management, and control of all facilities for production, gathering, storage, transportation, distribution, and sale; the total estimated natural gas reserves of fields or reservoirs and the current utilization of natural gas and the relationship between the two; the cost of production, gathering, storage, transportation, distribution, and sale; the rates, charges, and contracts in respect to the sale of natural gas and its service to residential, rural, commercial and industrial consumers, and other purchases by private and public agencies; and the relation of any and all such facts to the development of conservation, industry, commerce, and the national defense.
- (c) Make, within 90 days of enactment, an initial such study with respect to the total estimated natural gas reserves of fields and reservoirs and the current utilization of natural gas and the relationship between the two, and make annual revisions; and make reports of same to the President and Congress.

Section 208. Adds eight new sections to the Natural Gas Act, as follows:

- Sec. 24. (a) Requires the FPC by regulation to establish a national ceiling rate for the sale or transfer in interstate commerce of Outer Continental Shelf new natural gas from January 1, 1975 through December 31, 1980 and, in establishing the ceiling, to consider only the following factors: (1) the prospective costs attributable to the exploration, development, production, gathering, and sale of natural gas; (2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas; (3) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers;

and (4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of the other factors.

(b) Requires the FPC to monitor the ceiling and report annually to Congress on the ceiling's effectiveness in meeting the above factors.

(c) Permits the FPC to authorize higher than ceiling rates for Outer Continental Shelf new natural gas from any high cost production area or vertical drilling depth designated by the FPC.

(d) Requires any advance payments contract for the sale of new natural gas for resale entered into after enactment to be filed with the FTC and authorizes the FTC to require a reduction or modification of the sales rate specified.

(e) Requires the FPC, pending the establishment of a national rate ceiling, to establish an interim rate ceiling equivalent to the average dollar valuation per barrel of domestic crude oil.

(f) Removes the ceiling price for Outer Continental Shelf new natural gas from and after January 1, 1981.

- Sec. 25 (a) Requires the FPC - after maintaining service to residential users, small users, hospitals and similar services vital to public health and safety, - to, by rule prohibit any interruption or curtailment of natural gas and assure the availability in interstate commerce of sufficient quantities of natural gas for use for any essential agricultural, food processing, or food packaging purpose for which natural gas is essential.

(b) Requires the FPC, after meeting the requirements of subsection (a), to assure natural gas service to users using natural gas as a raw material and uses other than boiler fuel for which there is no substitute.

- Sec. 26 Subjects SNG plants, the persons owning or operating them, and SNG sales and transportation to FPC jurisdiction, but does not include in such jurisdiction feedstock of SNG plants or facilities for the production of such feedstock.

- Sec. 27. (a) Mandates FPC prohibition by rule of boiler fuel use of natural gas not contracted for before January 1, 1975 unless alternative fuels- other than oil or propane - are unavailable or cannot timely be utilized.
- (b) Terminates boiler fuel use of natural gas contracted for prior to January 1, 1975 at the contract expiration or 12 years after enactment, whichever is earlier, unless alternative fuels are unavailable or cannot timely be utilized.
- (c) Except as provided in subsection (b), prohibits the FPC from tampering with contracts or certificates of public convenience and necessity.
- (d) [Missing]
- (e) Requires the Administrator, FEA, to prohibit residential gas usage which he determines to be solely for ornamental or decorative purposes and for which there is an installed electricity capability.
- (f) Exempts boiler fuel uses for ignition, start up, testing, flame stabilization, and alleviation of air quality emergencies from the boiler fuel prohibition.
- Sec. 28. Requires all pipelines to file separate tariffs with respect to old natural gas and new natural gas and to give first priority under the old gas tariff for meeting the requirements of residential and small users.
- Sec. 29. Requires the FPC by regulation to establish, and revise biennially, a national ceiling rate for the sale in interstate commerce for resale of old natural gas the sale of which gas is continued in interstate commerce after the expiration of a contract by its own terms (and not through the exercise of any power to terminate or renegotiate contained therein) for the sale or delivery of such natural gas, and in establishing such ceiling to consider only the following factors: (1) the costs attributable to the exploration, development, production, gathering, and sale of old natural gas; (2) the prospective costs of operation, re-working, installation of additional compression, and similar expenses, which costs are necessary to prevent abandonment in place of old natural gas reserves otherwise recoverable; (3) the reimbursement to the seller of (a) any severance, production, or other tax payable by

the seller and levied on the value or volume of production at the wellhead; and (b) any royalty or royalties on natural gas which a producer is required to pay to a royalty owner under applicable State law; (4) the rate of return on seller's original capital investment which is sufficient to encourage the optimum level of investment in natural gas exploration and production; and

(5) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of the other factors.

- Sec. 30. Requires that all leases or other agreements entered into by the Secretary of the Interior for the exploration or production of oil or natural gas on Federal lands provide that the Secretary may require increased production up to but not to exceed the maximum efficient rate of production under such lease for the purposes of dealing with emergency shortages of oil or natural gas or other national emergencies.

Requires the Secretary to issue regulations setting forth the maximum efficient rate of production for each field on Federal lands which the Secretary determines produces, or has the capacity to produce, significant quantities of natural gas.

- Sec. 31. (a) Requires the Secretary of the Interior to offer and sell to the public U.S. royalty gas; except that in emergency shortage situations the Secretary is required to limit participation of competitors for the sale of such gas to those serving the region where severe economic or social dislocation is threatened.

(b) Requires the Secretary to submit to Congress a systematic plan together with any necessary Federal policies, regulations, and procedures and any amendments he deems necessary to applicable Federal legislation, to facilitate and maximize the efficient and effective use of royalty natural gas ordered by the Secretary pursuant to (a) above.

Section 209. Adds a new subsection to Section 2 of the Natural Gas Act providing that nothing shall prevent the intrastate transportation of natural gas first sold after enactment in an interstate pipeline provided that service necessary to meet interstate customers' requirements is not prevented and the rates for such transportation reflect the fully distributive costs

of the interstate facilities used therein, and the provisions of the Act shall not apply to any such intrastate transportation or the facilities utilized in such service.

Section 210. Conforming amendments.

FEDERAL ENERGY ADMINISTRATION

Date: November 20, 1975

Reply to Paul Cyr, Director for Congressional Affairs
Attn of:

Subject: H.R. 9464 - Natural Gas

To: Distribution List A

The Energy and Power Subcommittee of the House Commerce Committee completed action on their emergency natural gas legislation, H.R. 9464. The final product was based upon a revision of the original H.R. 9464, introduced as a substitute by the Chairman, Mr. Dingell, on October 31. The purpose of the substitute is to provide only short-term emergency authorities to minimize the adverse effects of the expected natural gas supply shortages through the winter heating season.

The bill is designed to accomplish this by allowing interstate natural gas pipelines that are deemed "distressed" to enter the intrastate market and purchase supplies at the market price. These additional supplies can be shipped to states that are experiencing shortages, and sold at the market rates plus shipping charges. These rates will be higher than current interstate prices which are regulated by the Federal Power Commission. This authority will begin at the enactment date and continue through the winter until August, 1976.

Amendments were added to the Dingell substitute, but they did not change the basic concept of the plan. The Minority Members of the Subcommittee did not agree that only emergency measures should be enacted. They attempted to amend the bill so that it would address both the short and long range problems. They had very little success. It is interesting to note that one of the last amendments introduced by the minority was defeated by a vote of 8 to 8. This would have extended the emergency authority through April 15, 1977. The Majority Members seemed to agree that it was a good idea to allow both producers and consumers the lead time required to prepare for next winter, but they were against allowing the act to extend through the summer slack period. The Chairman voiced his intent to prepare an amendment to be introduced to the full Committee which would extend the authority through 1977, but not allow uncontrolled activity through the summer.

This important piece of legislation was reported out of Subcommittee by a vote of 12 to 4. Mr. Krueger, a Democrat from Texas, voted against, and two Republicans, Mr. Moorhead and Mr. Heinz, voted for. It is expected that the full House Commerce Committee will make every effort to expedite consideration of the bill.



Members present:

Democrats

Mr. Dingell
Mr. Sharp
Mr. Eckhardt
Mr. Ottinger

Mr. Krueger
Mr. Moffet
Mr. Maguire

Republicans

Mr. Brown
Mr. Broyhill
Mr. Heinz

For additional information contact Larry Gallo, 961-7281.



SUBJECT: House Action on Natural Gas Legislation.

Depending on the rule granted to Dingell's H. R. 9464 substitute (See attached memo of November 21) the following analysis of Rules Committee voting patterns might be pertinent to upcoming action on substitutes to H. R. 9464 or amendments thereto.

In all likelihood, Rules Committee will support the product of the Energy and Power Subcommittee which we assume will be reported out by the Interstate and Foreign Commerce Committee.

An analogous situation existed on H. R. 7014 pricing provisions. During that debate, three separate rules were granted to substitutes for these provisions. Two were sponsored by Mr. Krueger, one by Eckhardt-Staggers. Mr. Krueger has two substitutes for H. R. 9464 and has stated his intention to go to Rules Committee if necessary to gain consideration for his measures.

Based on past voting patterns the following members may be classified as targets for, or supporters of, efforts to gain acceptance for long term natural gas deregulation:

Anderson, Latta, Lott, Quillen, Young, Clawson (T),
Long (T), Matsunaga (T), Sisk (T), and Bolling (T).

Early indications are that six members would oppose a rule allowing a substitute Title II, five would support it and five are undecided.

A tabulation by Committee member is attached.



Date: November 21, 1975

Reply to
From: Paul Cyr

Subject: House Action on Natural Gas Legislation

To: Eric Zausner

The Energy and Power Subcommittee of the House Interstate and Foreign Commerce Committee has completed markup on the Dingell substitute for H. R. 9464. The bill will be sent to the full Committee possibly as early as the week of December 1st and then will go to the Rules Committee.

At this point, there is no way to predict the actions of the Committee members with regard to other natural gas legislation. Chairman Dingell has stated his intention to begin work on long term natural gas legislation as soon as possible. He made it clear during markup that he intended to begin such action as soon as the full Committee completed work on the short term legislation. This may have mollified Representatives Krueger, Murphy and Brown who still have the option of going to either the full Committee, Rules Committee or to the floor with their bills or amendments to the Dingell bill.

The overriding factor on floor action will be the rule granted to whatever the full Committee acts on. If an open rule is granted, members desiring immediate action on long term legislation may simply add another title concerning that subject. However, if the Dingell bill is given a modified or closed rule, a new title containing long term deregulation realistically can be added only if the Rules Committee specifically allows for an amendment. The only other course of action is to vote on the House floor to suspend the rule. This requires a two-thirds affirmative vote and in this instance is not likely to carry. The most recent precedent for such action on energy legislation was the pricing provisions of H. R. 7014. Three separate rules were granted allowing amendments in the form of substitutes to the pricing provisions. Interestingly, Mr. Krueger was successful in both his attempts to have such amendments accepted by the Rules Committee and presented on the floor.



DEMOCRATS

	1	2	3	4
Staggers (2 - W. Va.)	X			
Maddonald (7 - Mass.)	X			
Moss (3 - Calif.)	X			
*Dingell (16 - Mich.)	X			
Rogers (11 - Fla.)		X		
Van Deerlin (42 - Calif.)		X		
Booney (15 - Pa.)		X		
*Murphy (17 - N. Y.)			X	
Satterfield (3 - Va.)			X	
Adams (7 - Wash.)	X			
Stuckey (8 - Ga.)		X		
*Eckhardt (8 - Texas)		X		
Preyer (5 - N.C.)		X		
Symington (2 - Mo.)	X			
Carney (19 - Ohio)	X			
Metcalf (1 - Ill.)	X			
Byron (6 - Md.)			X	
Schauer (11 - N. Y.)	X			
*Ottinger (24 - N.Y.)		X		
Waxman (24 - Calif.)	X			
*Krueger (21 - Texas)				X
*Wirth (2 - Colo.)		X		
*Sharp (10 - Ind.)		X		
*Brodehead (17 - Mich.)		X		
Hefner (8 - N.C.)		X		
Florio (1 - N.J.)	X			
*Moffett (6 - Conn.)	X			
Santini (A.L. - Nev.)		X		
*Maquire (7 - N.J.)	X			

REPUBLICANS

Devine (12 - Ohio)				X
*Broyhill (10 - N.C.)				X
Carter (5 - Ky.)			X	
*Brown (7 - Ohio)				X
Skulitz (5 - Kans.)			X	
Hastings (39 - N.Y.)		X		
Collins (3 - Texas)				X
Frey (9 - Fla.)			X	
McCollister (2 - Neb.)			X	
Lent (4 - N.Y.)			X	
*Heinz (18 - Pa.)		X		
Madigan (21 - Ill.)				X
*Moorhead (22 - Calif.)				X
Rinaldo (12 - N.J.)		X		
TOTALS	Subcommittee: 3	6	1	4
	Full Committee: 13	14	7	7

1. Strongly opposed
2. Possible supporter (supports short term only at this time)
3. Supporter
4. Strongly for

and Deaf Subcommittee Members



COMMITTEE ON RULES

DEMOCRATS

	OPP.	T.	FOR	
Madden	X			
Delaney	X			
Bolling		T		
Sisk		T		
Young (Tx.)			X	
Pepper	X			
Matsunaga		T		
Murphy	X			
Long		T		
Moakley	X			
Young (Ga.)	X			

REPUBLICANS

Quillen			X	
Anderson			X	
Latta			X	
Clawson		T		
Lott			X	
Total:	5	5	5	



*to Deyell substitute
offered 11/18/75 at
markup*

*and prior to January
1, 1981*

5 "(b) Subject only to the provisions of subsection (d) of
6 this Section, after midnight, April 15, 1976, the authority of the
7 Commission to regulate the sale of natural gas to a natural-gas
8 company for resale in interstate commerce pursuant to the Natural
9 Gas Act shall cease to exist with respect to, and shall not apply
10 to, new natural gas: *Provided, however,* That nothing con-
11 tained in this Act shall
12 modify or affect the authority of the Commission in effect
13 prior to the date of enactment of this Act to (A)
14 regulate the transportation in interstate commerce of natural
15 gas or the sale in interstate commerce for resale of old natural
16 gas, or (B) regulate sales for resale of natural gas by any
17 natural-gas company which transports natural gas in inter-
18 state commerce or by an affiliate thereof which transports
19 natural gas in interstate commerce."



(c)(1) Notwithstanding the provisions of any other law, rates and charges
15 made, demanded, or received by any natural-gas company
16 for, or in connection with, a contract for the sale of new
17 natural gas produced from offshore Federal lands shall be
18 deemed to be just and reasonable, if they do not exceed the
19 applicable national ceiling, established by regulation of the
20 Commission or subsequently modified by the Commission
21 pursuant to this Act, in effect at the time when
22 such new natural gas is either first sold or first transferred
23 under such contract to a natural-gas company: *Provided,*
24 *however,* That rates and charges in excess of such national



1 ceiling may be authorized by the Commission to provide
2 special relief to meet extraordinary expenses that could not
3 be anticipated at the time the national ceiling was established
4 or modified."

5

6

7 (2) : "Notwithstanding the foregoing, the
8 Commission shall have no power (A) to deny, in whole or
9 in part, any rate or charge made, demanded, or received by
10 any natural-gas company for, or in connection with, the pur-
11 chase or sale of new natural gas, or that portion of the rates
12 and charges of such company which relates to such purchase
13 or sale, except (i) to the extent that such rates or charges,
14 or such portion thereof, for new natural gas produced from
15 offshore Federal lands exceed the national ceiling, established
16 or modified by regulation of the Commission pursuant to
17 Subsection (d) of this Act, or (ii) in any case where a natu-
18 gas company purchases natural gas from an affiliate or pro-
19 duces natural gas from its own properties, to the extent that
20 the Commission determines that the rates and charges there-
21 for exceed the current rates and charges, or portion thereof,
22 made, demanded, or received for comparable sales by any
23 person who is not affiliated with any natural-gas company;
24 or (B) to order a decrease in the rate or charge made, de-
25 manded, or received for the sale or transfer of old natural
1 gas by a natural-gas company if such rate or charge shall
2 have been previously determined or deemed to be just and
3 reasonable pursuant to this Act."



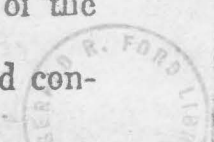
19 (d)(1) Notwithstanding the provisions of any other law,
20 the Commission shall, as soon as practicable after the date
21 of enactment, and pursuant to rulemaking proce-
22 dures under section 553 of title 5, United States Code, estab-
23 lish by regulation, and may from time to time modify, a
24 national ceiling for rates and charges for the sale or transfer
25 in interstate commerce by any person of new natural gas



1 during the period such ceiling is in effect, commencing on
2 July 1, 1976, the Commission shall report to the Congress
3 not less than annually on the effectiveness of such national
4 ceiling in meeting the factors set forth in subsection (a) of
5 this section.

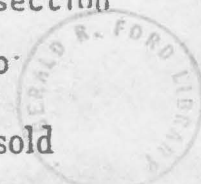
6 “(3) The Commission may authorize a person to
7 charge an amount in excess of such national ceiling for new
8 natural gas produced from offshore Federal lands from any
9 high cost production area or vertical drilling depth as des-
10 ignated by the Commission pursuant to its rulemaking au-
11 thority. In establishing such amount in excess of such na-
12 tional ceiling, the Commission shall consider the factors set
13 forth in paragraph 1 of this subsection and only those factors.

14 “(4) Any contract entered into after the date of
15 enactment of this Act _____ for
16 the sale of new natural gas for resale which involves the
17 receipt by the seller of funds in advance of production of
18 the natural gas covered by such contract shall be filed with
19 the Commission at least 60 days in advance of deliveries
20 thereunder. The Commission may thereafter require, after
21 notice and opportunity for hearing, that the sales rate speci-
22 fied in such contract be reduced or modified as necessary
23 to repay in full to the advancing party the principal of the
24 advance and any interest thereon, upon such terms and con-



1 ditions as the Commission may determine proper in the
2 public interest.

3 “(5) Pending the establishment of a national ceiling pur-
4 suant to subsection (d)(1) of this Section by a final Commission
5 order which is no longer subject to judicial review and within
6 30 days after the enactment of the this Act
7 and on January first of each year there-
8 after until such establishment of a national ceiling, the Com-
9 mission shall establish an interim ceiling for rates and charges
10 for the sale or transfer in interstate commerce by a producer
11 of new natural gas produced from offshore Federal lands
12 which shall be effective November 1, 1975, and which shall
13 be equivalent to the average dollar valuation per barrel of
14 domestic crude oil used by the United States Geological
15 Survey or its successor Federal agency or office in comput-
16 ing the royalties due the United States on account of crude
17 oil produced from all Federal lands during the calendar
18 month ending 30 days prior to such determination. Such in-
19 terim ceiling price shall be expressed in one million British
20 thermal units and shall be determined by dividing such aver-
21 age dollar valuation per barrel of crude oil by 5.8. After
22 the establishment of a national ceiling pursuant to subsection
23 (d)(1) of this section by final Commission which is no
24 longer subject to judicial review, any producer who has sold



1 new natural gas produced from offshore Federal lands during
2 the period the interim ceiling price was in effect shall there-
3 after have the benefit of the national ceiling: *Provided, how-*
4 *ever,* That the Commission shall have no power to order a
5 reduction in the rates and charges for such sale below the
6 interim ceiling price in effect on the dates of the establish-
7 ment of the national ceiling.

8 ~~"(6) From and after January 1, 1981, there shall be no~~
9 ~~ceiling price applicable to the sale of new natural gas pro-~~
10 ~~duced from offshore Federal lands.~~

11 "(6) No price established by or pursuant to
12 this Act for new natural gas shall be
13 retroactive so as to affect any price for any gas sold prior
14 to November 1, 1975.



MURPHY NATURAL GAS BILL

SUMMARY AND SECTION ANALYSIS

SUMMARY

Rep. John M. Murphy's bill amends the Natural Gas Act. It is a long-term bill only, with no emergency provisions. The principal thrust of the bill is immediate (date of enactment) deregulation of all "new natural gas" except OCS gas. The latter is deregulated in phases with the last ceiling price expiring on December 31, 1980. New natural gas is defined to include natural gas sold or delivered in interstate commerce which is (a) first dedicated to interstate commerce on or after January 1, 1975, (b) continued in interstate commerce after contract expiration, or (c) produced from wells commenced on or after such date. The bill also contains a provision requiring the FPC to give a high curtailment priority to agricultural gas users and a provision requiring the FEA to prohibit any boiler fuel use of natural gas unless alternate fuels (excluding oil and propane) are unavailable or cannot be utilized.

SECTION ANALYSIS

Sec. 1 establishes the bill as the "Natural Gas Act Amendments of 1975."

Sec. 2-5 accomplish deregulation of the wellhead price of new natural gas, which is defined (Sec. 3) to include natural gas sold or delivered in interstate commerce which is (a) first dedicated to interstate commerce on or after January 1, 1975, (b) continued in interstate commerce upon contract expiration on or after that date, and (c) produced from wells commenced on or after that date.

Sec. 6 authorizes the FPC to conduct comprehensive studies of all gas production, gathering, storage, transportation, distribution, and sale, whether or not otherwise subject to FPC jurisdiction.

Sec. 7 adds three new sections to the Natural Gas Act:

- A new Sec. 24 would require the FPC to establish on January 1, and annually to reset, a national ceiling for OCS new natural gas; the ceiling will be equivalent to the average dollar valuation per barrel of domestic crude oil as used by USGS in computing royalties due the USA from the production of crude on federal land. The ceiling goes out of existence, and hence the price of OCS gas is deregulated, on December 31, 1980.



- A new Sec. 25 would require the FPC to accord curtailment priority, except for residential users, small users (undefined), and (hospitals and other vital health and safety users), to agricultural gas consumers. The FPC is directed to "take such other steps as are necessary to assure as soon as practicable the availability in interstate commerce" of gas for these consumers.
- A new Sec. 26 declares that "boiler fuel use of natural gas," defined in Sec. 3 to mean use for the purpose of electric generation, is not in the public interest. Accordingly, it directs the Administrator, FEA, to (a) prohibit all such use contracted for after enactment, unless alternate fuels (not to include oil or propane, and thus to include basically coal) are unavailable or infeasible to use, and (b) phase out "as soon as practicable" pre-enactment contractual use.



Done 11/26/75

THE WHITE HOUSE
WASHINGTON

Nota:

11-25-75

Make a copy of the
attached for WH, VL, +
TL.

Chas.



FEDERAL ENERGY ADMINISTRATION

Date: November 20, 1975

Reply to: Paul Cyr, Director for Congressional Affairs
Attn of:

Subject: H.R. 9464 - Natural Gas

To: Distribution List A

The Energy and Power Subcommittee of the House Commerce Committee completed action on their emergency natural gas legislation, H.R. 9464. The final product was based upon a revision of the original H.P. 9464, introduced as a substitute by the Chairman, Mr. Dingell, on October 31. The purpose of the substitute is to provide only short-term emergency authorities to minimize the adverse effects of the expected natural gas supply shortages through the winter heating season.

The bill is designed to accomplish this by allowing interstate natural gas pipelines that are deemed "distressed" to enter the intrastate market and purchase supplies at the market price. These additional supplies can be shipped to states that are experiencing shortages, and sold at the market rates plus shipping charges. These rates will be higher than current interstate prices which are regulated by the Federal Power Commission. This authority will begin at the enactment date and continue through the winter until August, 15 1976.

Amendments were added to the Dingell substitute, but they did not change the basic concept of the plan. The Minority Members of the Subcommittee did not agree that only emergency measures should be enacted. They attempted to amend the bill so that it would address both the short and long range problems. They had very little success. It is interesting to note that one of the last amendments introduced by the minority was defeated by a vote of 8 to 8. This would have extended the emergency authority through April 15, 1977. The Majority Members seemed to agree that it was a good idea to allow both producers and consumers the lead time required to prepare for next winter, but they were against allowing the act to extend through the summer slack period. The Chairman voiced his intent to prepare an amendment to be introduced to the full Committee which would extend the authority through 1977, but not allow uncontrolled activity through the summer.

This important piece of legislation was reported out of Subcommittee by a vote of 12 to 4. Mr. Krueger, a Democrat from Texas, voted against, and two Republicans, Mr. Moorhead and Mr. Heinz, voted for. It is expected that the full House Commerce Committee will make every effort to expedite consideration of the bill.

THE WHITE HOUSE

WASHINGTON

December 2, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF
THROUGH: VERN LOEN
FROM: TOM LOEFFLER
SUBJECT: Natural Gas Legislation

It is possible that when the Interstate and Foreign Commerce Full Committee convenes at 10 a.m. this morning, the Committee will begin mark-up of natural gas legislation. The Subcommittee on Energy and Power has reported out legislation which would only address short-term emergency situations. The subcommittee failed to include language which would allow for long-term resolutions of our nation's natural gas shortages.

During full committee consideration, Congressmen Brown and Krueger will offer language which would not only satisfy emergency short-term needs, but also provide for long-term solutions. It appears that a committee vote on long-term legislation may be very close. Congressmen Brown and Krueger feel it would be most helpful if the White House would contact the following Members urging that they support long-term remedies as well as legislation which would address emergency situations:

Democrats

Lionel Van Deerlin
Fred Rooney
Paul Rogers
John Murphy
Dave Satterfield
Bill Stuckey
Richardson Preyer
James Symington
Goodloe Byron
Phil Sharp
Bill Hefner
Jim Santini

Republicans

Tim Lee Carter
Joe Skubitz
John Heinz
Matt Rinaldo
Norm Lent

Republican Policy Committee

U.S. HOUSE OF REPRESENTATIVES

1616 LONGWORTH BUILDING

WASHINGTON, D.C. 20515

202/225-6168

94th Congress
First Session

December 15, 1975
Statement #28

RUNNING OUT OF GAS: CONGRESSIONAL ENERGY POLICY

The House is preparing once again to debate another in a disheartening series of dismal responses to the nation's energy needs. H.R. 9464, the Natural Gas Emergency Act, like the other energy measures produced thus far by the 94th Congress, avoids direct confrontation with the energy issue, fails to propose long-term solutions, relies on ineffective stop-gap cosmetics and succeeds only in postponing, perhaps indefinitely, the steps necessary to assure energy supplies sufficient to meet future needs.

H.R. 9464 aims only at alleviating possible natural gas shortages this winter and next. It authorizes an emergency procedure under which interstate gas pipelines experiencing severe curtailments in supply could purchase additional gas from the unregulated intrastate markets. Should this become necessary, residential and small commercial consumers would be exempt from the resulting higher prices which would be paid solely by industrial users.

This bill is just a band-aid for the next two winters. It does nothing to prevent the very real long-term natural gas shortage from growing worse. This is serious because although natural gas now supplies about a third of the nation's total energy consumption and nearly half the non-transportation energy use, production of gas peaked in 1974 and supplies in the last several years have fallen increasingly short of demand.

Government regulation of natural gas sold on the interstate market is largely to blame for this situation. Federal controls keep the price of gas so artificially low that exploration for new gas reserves has declined drastically in the last decade

MORE

while demand has soared for this fuel that costs only one-third the price of fuel oil and four-fifths the price of coal.

Congress, by refusing to correct this situation, is trying to make the laws of economics respond to the needs of politics. This is no more productive or realistic than for Congress simply to mandate a doubled supply of natural gas supplies.

House Republicans are convinced that the only realistic and effective means of dealing with the future natural gas situation is to deregulate interstate gas prices.

This simultaneously will curb demand for a fuel which for years has not been priced to reflect its true value in our economy, will encourage exploration, development and production of hitherto untapped natural gas reserves, and will prevent the unemployment and economic dislocations that accompany gas shortages.

Despite ample hearings and testimony strongly in favor of long-term deregulation, the Committee on Interstate and Foreign Commerce failed in a 19-19 tie vote to include an experimental seven-year trial deregulation period in H.R. 9464. The Republican Policy Committee believes it is crucial that language dealing with long-term deregulation be added to the bill on the House Floor.

If the full House shirks the responsibility for adding a long-term natural gas pricing and deregulation provision to this legislation, it is unlikely that the 94th Congress will deal with the issue later on. Therefore, this bill represents a "now or never" last opportunity for Congress to enact the kind of permanent natural gas legislation needed to assure future gas supplies required by American farmers, business, industry and individual consumers. We prefer preventing emergencies to coping with them.

The Republican Policy Committee favors inclusion of long-term natural gas price deregulation provisions in H.R. 9464.

[1/76]

H.R. 11265

Rep. Krueger introduced H.R. 11265 on December 18, 1975. This was a reintroduction of H.R. 10480 with additional sponsors. On December 8, 1975, later amended on January 19, 1976, Rep. Krueger introduced another bill. These two bills differ in four ways:

(1). The expiration date of the short term title of H.R. 11265 is April 4, 1976 (§107(a), p. 22); the comparable date for the Dec. 8 bill is April 15, 1976 (§107(a), Cong. Rec. Dec. 8, 1975, p. H 12024)

(2). The short term boiler fuel conversion authority in H.R. 11265 extends and expands ESECA (§105, pp. 5-10); the comparable provision in the Dec. 8 bill has the same substantive thrust but does not refer to or otherwise affect ESECA (§105, Cong. Rec. Dec. 8, 1975, pp. H 12022-12023).

(3). The H.R. 11265 cut-off date for old vs. new gas is January 1, 1975 (§204, p. 24); the Dec. 8 bill has a cut-off date of January 1, 1976 (§204, Cong. Rec. Dec. 8, 1975, p. H 12024, as amended Cong. Rec. Jan. 19, 1976, p. H 73).

(4). In H.R. 11265 the FPC is directed to make and revise annually without limit a comprehensive study of the gas industry (§207, pp. 27-30); in the Dec. 8 bill, the obligation to make annual revisions ceases on Dec. 31, 1981 (§207, Cong. Rec. Dec. 8, 1975, p H 12025).

SECTION BY SECTION ANALYSIS

Krueger Substitute for H. R. 9464

Title I - Emergency Natural Gas Authority

Section 101. Short Title

- The Natural Gas Emergency Standby Act of 1975

Section 102.

- finds severe shortage of natural gas for 1975-1976 heating season constitutes an emergency which can be alleviated by limited exemptions from existing Federal Power Commission (FPC) regulation and by prohibition of boiler fuel usage (Sec. 102(a)).
- purpose of title is to grant FPC authority to allow purchases of gas from intrastate sources for high priority purposes free to the Natural Gas Act, to grant FEA authority to prohibit boiler fuel use of gas, and to grant the President standby authority to allocate propane (Sec. 102(b)).

Section 103. Definitions

- defines principally natural gas distribution company, high priority consumer (to be set by FPC), independent producer, and propane.

Section 104. Emergency Exemptions

- amends the Natural Gas Act to allow FPC to exempt (except for reporting), for 180 days, sales (and transportation and facilities associated with them) from any source (other than from the federal offshore domain) by an independent producer, a pipeline (inter-or intrastate), and a distributor to or with a natural gas company which transports gas in interstate commerce, which does not or will not have gas enough for its high priority customers, and which is in curtailment - FPC disempowered to deny rate recovery of emergency sales price - emergency sales deemed not to result in dedication of reserves to interstate commerce.

Section 105. Prohibition of the Use of Natural Gas As Boiler Fuel

- empowers FEA Administrator to prohibit use of natural gas as a boiler fuel by powerplants and major fuel burning installations if an alternate fuel can be practicably obtained and used, if the gas will become available to a curtailing pipeline which is unable to meet its high priority needs, and if EPA has not certified a Clean Air Act violation (Sec. 105(a)).
- prohibition orders not to extend beyond April 15, 1976 (Sec. 105(b)).
- ignition, startup, testing, and flame stabilization gas excluded (Sec. 105(c)) - operation of pollution abatement systems excluded (Sec. 105(f)).
- prohibition orders to provide for compensation of the boiler fuel facility and transporter (Sec. 105(f)).

Section 106. Propane Standby Allocation Authority

- upon finding a natural gas shortage which constitutes a public hazard, President authorized to establish propane priorities, to allocate propane, to lessen anticompetitive effects, and to provide incentives for propane extraction and production - all these to be consistent with the allocation provisions of the 1973 EPAA as amended.

Section 107. Expiration Date

- Title expires April 15, 1976, at midnight.

Title II - Natural Gas Act Amendments

Section 203

- amends the Natural Gas Act to eliminate FPC authority over the sale of new natural gas for resale in interstate commerce - new natural gas is defined (Sec. 204(a)) as gas sold or delivered in interstate commerce which is (A) first dedicated to interstate commerce on or after 1/1/76, (B) continued in interstate commerce upon contract expiration after 1/1/76, or (C) produced from wells commenced on or after 1/1/76 - rates for new natural gas freed from FPC regulation (Sec. 205, 206) except that rates for new natural gas from the federal offshore domain limited to applicable national ceiling.

Section 207

- authorizes the FPC to conduct comprehensive studies of all aspects of the gas industry.

Section 208

- amends the Natural Gas Act by adding a new section (24) dealing with rate setting methodology (prospective costs/capital attraction) for new natural gas from the federal offshore domain and requiring the FPC to set a national rate for such gas for the period from 1/1/76 through 12/31/80 - special exceptions authorized for high cost areas for rates in excess of national rate for gas from the federal domain offshore - interim rate for use until national rate is no longer subject to judicial review, keyed to USGS crude oil dollar valuation equivalent.
- amends the Natural Gas Act by adding a new section (25) requiring the FPC to prohibit curtailment of gas used for essential agricultural purposes, except to the extent necessary to protect residential and other human needs service - requires the FPC to maintain where feasible essential industrial service (non-boiler fuel industrial use).
- amends the Natural Gas Act by adding a new section (26) requiring the FPC to prohibit boiler fuel use of gas contracted for on or after 1/1/76 unless there is no alternative fuel capability or availability - also requires termination of pre-1/1/75 boiler fuel use at earlier of contract expiration or 12 years from enactment unless user demonstrates inability to use or obtain alternates - gas used for operation of pollution abatement systems, for ignition, startup, testing, and flame stabilization, and for alleviation of short-term air pollution emergencies is exempt from conversion.

Section 209

- amends the Natural Gas Act to allow intrastate pipelines to transport gas first transported in an interstate pipe without subjecting the intrastate line to FPC jurisdiction.

INVESTIGATION OF SUPPLY EMERGENCY

Sec. 6. (a) The President, through the Department of the Interior, shall undertake a study of natural gas supply and demand, and shall determine the total estimated natural gas reserves of the United States, and the estimated annual deliverability of natural gas from such reserves; the probable additions to such reserves and deliverability; the total estimated demand for natural gas by users; and the probable increase, or decrease, in demand by end-use purchasers.

(b) Such study shall be based on information developed, or completely verified for accuracy, after the date of enactment of this Act.

A copy of the completed study shall be transmitted, in writing, to the Congress as soon as practicable after completion.

RULEMAKING

Sec. 7. The Commission shall have authority to issue rules and orders, as the Commission determines are necessary or appropriate to the exercise of the jurisdiction granted under this Act.

Amend the title to read as follows: "A bill to assure the availability of adequate supplies of natural gas during a supply emergency period."

By Mr. KRUEGER:

(An amendment in the nature of a substitute.)

Strike all after the enacting clause and insert in lieu thereof the following:

**TITLE I—EMERGENCY NATURAL GAS
AUTHORITY
SHORT TITLE**

Sec. 101. This title may be cited as the "Natural Gas Emergency Standby Act of 1975".

Sec. 102. (a) The Congress finds and declares that the Nation will suffer severe shortages of natural gas during the heating season from November 1975 through March 1976. The Congress further finds and declares that such imminent shortages in our Nation's natural-gas supply constitute an emergency which can be alleviated by providing for limited exemptions from regulation of natural gas and for the prohibition of the use of natural gas as boiler fuel.

(b) The purpose of this title is to grant the Federal Power Commission authority to allow natural-gas companies which transport natural gas in interstate commerce with inadequate quantities of natural gas to meet the requirements of their high priority consumers of natural gas to purchase natural gas from sources not in interstate commerce and from other such companies on an emergency basis free from the provisions of the Natural Gas Act (15 U.S.C. 717 et seq.), except for the reporting requirements of such Act; to grant the Federal Energy Administration authority to prohibit the use of natural gas as boiler fuel; and to provide the President with standby authority to allocate propane during periods of actual or threatened severe shortages of natural gas.

DEFINITIONS

Sec. 103. For purposes of this title—

(1) "Natural-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 such term does not include a natural-gas company as defined in section 2(6) of the Natural Gas Act (15 U.S.C. 717a(6)).

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

(3) "Independent producer" means a person, as determined by the Commission, (A) is not affiliated with a person engaged in transportation of natural gas in interstate commerce, and (B) who is not a producing division of such a person engaged in

the transportation of natural gas in interstate commerce.

(4) "Propane" means (A) the chemical C_3H_8 in its commercial form whether recovered from natural-gas streams or crude oil refining, (B) the C_3H_8 component of raw domestic mixtures containing more than 10 percent of such component by weights, and (C) commercial propane-butane mixes containing by weight more than 10 percent of propane and not more than 5 percent of constituents other than propane or butane.

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

(6) "Administrator" means the Administrator of the Federal Energy Administration.

(7) "Commission" means the Federal Power Commission.

EMERGENCY EXEMPTIONS

Sec. 104. Section 7(c) of the Natural Gas Act (15 U.S.C. 717(c)) is amended by designating the two unnumbered paragraphs thereof as paragraphs (1) and (2), by deleting the period at the end of paragraph (2) as designated hereby, and inserting in lieu thereof the following: "Provided further, That, within 15 days after the enactment of the Natural Gas Emergency Standby Act of 1975, the Commission shall by regulation exempt from the provisions of this Act, except for reporting requirements, any activities, operations, facilities or services relating to the transportation, sale and delivery, transfer or exchange of natural gas from any source, other than any offshore federal lands, by an independent producer, a natural-gas company which transports natural gas in interstate commerce or a natural-gas producing affiliate of such company, a person who transports natural gas in other than interstate commerce or a natural-gas producing affiliate of such a person, or a natural-gas distributing company to or with a natural gas company which transports natural gas in interstate commerce which does not have or which under reasonably foreseeable circumstances may not have a sufficient supply of natural gas to meet the requirements of its high-priority customers of natural gas and which is curtailing during the heating season from November 1975 through March 1976 pursuant to a curtailment plan on file with the Commission. Exemptions granted pursuant to this proviso shall be for periods of no more than 180 consecutive days. Persons who are exempt under section 1 (b) or (c) of the Natural Gas Act shall not have their exempt status affected in any way by making the sales or deliveries contemplated by this subsection: *Provided further*, That the Commission shall have no power to deny, in whole or in part, recovery by any natural-gas company in its jurisdictional rates of the amount paid by it for natural gas delivered to it pursuant to sales and contracts as described herein, except to the extent that an interstate transporter purchases natural gas from an affiliate at a rate in excess of the price paid by the transporter to nonaffiliated sellers in comparable sales transactions: *Provided further*, That natural gas sold and delivered or transported pursuant to any exemption granted under section 104 of the Natural Gas Emergency Standby Act of 1975 shall not be or become subject to the jurisdiction of the Commission because of such sale or delivery or transportation whether or not such sale is a sale for resale in interstate commerce or such transportation is in interstate commerce."

**PROHIBITION OF THE USE OF NATURAL GAS AS
BOILER FUEL**

Sec. 105. (a) The purpose of this section is 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.

(b) The Administrator may, by order, prohibit any powerplant or major fuel burning installation from burning natural gas if—

(1) the Administrator determines that—

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

(B) the burning of petroleum products, coal or derivatives thereof by such powerplant or installation in lieu of natural gas is practicable,

(C) petroleum products, coal or derivatives thereof will be available during the period such order is in effect,

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

(E) the prohibition under this subsection will result in making natural gas available for sale to a natural-gas company which transports gas in interstate commerce and which does not have adequate quantities of natural gas to meet the requirements of its high-priority consumers and which is curtailing pursuant to a curtailment plan on file with the Commission, and

(2) the Administrator of the Environmental Protection Agency has not certified to the Administrator within 15 days of the issuance of such order that its implementation will violate the Clean Air Act (42 U.S.C. 1857 et seq.) (including applicable implementation plans).

(b) The Administrator may specify in any order issued pursuant to subsection (a) of this section the periods of time during which such 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 to meet peaking load requirements: *Provided, however*, That no order issued pursuant to this section shall extend beyond April 15, 1976.

(c) The administrator shall exempt from any order issued pursuant to subsection (a) of this section the burning of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a powerplant or major fuel burning installation.

(d) The Administrator shall also exempt from any rule under this section the burning of natural gas by powerplants for the purpose of operating pollution abatement systems.

(e) The Administrator shall modify or suspend any order issued pursuant to subsection (a) of this section to the extent necessary to alleviate short-term air quality emergencies or any other danger to the public health, safety, or welfare.

(f) Any order issued pursuant to this section shall provide for just compensation of the facility and transporter affected by such order. Such compensation is (1) to be measured by the increased costs, if any, incurred by a powerplant or major fuel burning installation and the loss of revenue, if any incurred by a transporter as a result of such order, and (2) to be paid ultimately through increased rates and charges by those users, in proportion to the volumes of natural gas consumed by such users, who are determined by the Commission to benefit as a result of such order: *Provided, however*, That nothing contained in this subsection shall be construed to extend the jurisdiction of the Commission under section 2 of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1975 (15 U.S.C. 717). For the purposes of this subsection, the term "users" means high priority consumers of

natural gas who consume natural gas transported by that natural-gas company which controls the natural-gas supplies made available to the consumer by an order issued pursuant to this section.

(g) The Administrator and the Commission shall have authority to issue such rules and orders applicable to any person as the Administrator or the Commission determines are necessary or appropriate to carry out the provisions of this section.

PROPANE STANDBY ALLOCATION AUTHORITY

SEC. 108. (a) 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 such orders and regulations as he deems appropriate to provide, consistent with subsection (d) of this section, for the establishment of priorities of use and for equitable allocation and distribution of propane to classes of consumers, who are historical users of propane, and where energy and feedstock needs have historically been met through the use of propane, and equitable pricing of propane, in order to meet the essential needs of various sections of the United States, to lessen anticompetitive effects resulting from shortages of natural gas and to provide sufficient incentive to maximize the extraction and production of propane. Such orders and regulations shall be consistent with the allocation provisions of section 4 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 553).

(b) (1) Whoever violates any order or regulation under this section shall be subject to civil penalty of not more than \$2500 for each violation.

(2) Whoever willfully violates any order or regulation under this section shall be fined not more than \$5000 for each violation.

(3) Any person or agency to whom the President has delegated his authority pursuant to subsection (j) of this section may issue such orders and notices as are deemed necessary to insure compliance with any order or regulation issued pursuant to subsection (a) of this section or to remedy the effects of any such orders or regulations.

(c) There shall be available as a defense in 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 section that such delay or failure was caused solely by compliance with the provisions of this section or with any regulations or any orders issued pursuant to this section.

(d) (1) Subject to paragraphs (2), (3), and (4) of this subsection, which shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551 (4) of title 5, United States Code, except as to the requirements of sections 553, and 555 (e) of title 5, United States Code.

(2) Notice of any proposed rule, regulation, or order described in paragraph (1) of this subsection shall be given by publication in the Federal Register. In each case, a minimum of 10 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 compliance is found to cause serious injury or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order.

(3) In addition to the requirements of paragraph (2) of this subsection, if any rule, regulation, or order described in paragraph (1) of this subsection 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 45 days after the issuance of any such rule, regulation, or order. A transcript shall be kept of any oral presentation.

(4) The President or any officer or agency authorized to issue the rules, regulations or orders described in paragraph (1) of this subsection shall provide for the making of such adjustments, consistent with the other purposes of this section, as may be necessary to prevent particular 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 preceding 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 subsection (j) of this section and may obtain judicial review in accordance with subsection (e) of this section when such denial becomes final. The President or such officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(e) (1) The district courts of the United States shall have exclusive original jurisdiction of cases or controversies arising under this section or under regulations or orders issued thereunder, notwithstanding the amount in controversy; except that nothing in this paragraph or in paragraph (7) of this subsection shall affect 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 section or the validity of action taken by any agency under this section) raised in any proceeding before such court. If in any such proceeding an issue by way of defense is based on the constitutionality of this section or the validity of actions taken under this section, 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.

(2) 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 designated 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 subparagraph (B) of paragraph (5) of this subsection, the court shall not have power to issue any interlocutory decree staying or restraining in whole or in part any provision of this section, 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 section. The court shall exercise its powers and prescribe rules governing its pro-

cedure in such manner as to expedite the determination of cases over which it has jurisdiction under this section. 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 and proper.

(3) Appeals from the district courts of the United States in cases or controversies arising under regulations or orders issued under this section shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within 30 days of the entry of judgment by the district court.

(4) In any action commenced under this section 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.

(5) (A) Subject to subparagraph (B) of this paragraph, no regulation of any agency exercising authority under this section shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such agency was in excess of the agency's authority, was arbitrary and 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 arbitrary or capricious, or is based upon findings which are not supported by substantial evidence.

(B) 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 section to a person who is a party to litigation before it. Except as provided in this paragraph, no interlocutory or permanent injunction restraining the enforcement, operation, or execution of this section, 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 (1) that a regulation of an agency exercising authority under this section 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 (2) that an order of such agency is invalid upon a determination that the order is in excess of the agency's authority, or is arbitrary or capricious, 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 subparagraph 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.

(6) 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 section, or any regulation or order issued thereunder shall be postponed until the expiration of time for filing a writ of certiorari. 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.

(7) Within 30 days after entry of any judgment or order by the Temporary Emer-

agency Court of Appeals, a petition for a writ certiorari may be filed in the Supreme Court of the United States, and thereupon 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 provisions of this section or of any regulation or order issued under this section. Except as provided in this paragraph, no Federal or State court shall have jurisdiction or power to consider the constitutional validity of any provisions of this section or of any such regulation or order, or to stay, restrain, enjoin, or set aside, in whole or in part, any provision of this section 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.

(f) Whenever it appears to any person or agency authorized by the President pursuant to subsection (j) of this section 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 section, 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.

(g) (1) An agency or person exercising authority pursuant to subsection (j) of this section shall have authority, for any purpose related to this section, 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.

(2) Upon presenting appropriate credentials and a written notice to the owner, operator, or agency in charge, any agency or person exercising authority pursuant to subsection (j) of this section may enter 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 section and to verify the accuracy of any such information.

(3) 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 subsection, 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.

(h) Any person suffering legal wrong because of any act or practice arising out of this section, 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 subsection (e) of this section), or damages.

(i) Section 5(b) of the Federal Energy Administration Act of 1974 (15 U.S.C. 763(b)) is amended by adding the word "and" after the semicolon in paragraph 10; by deleting paragraph 11; and by redesignating paragraph 12 as paragraph 11.

(j) The President may delegate the performance of any function under this section to such offices, departments, and agencies of the United States as he deems appropriate.

(k) 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 section or any rule, regulation, or order issued pursuant to this section except insofar as such law, rule, regulation, order, or ordinance is inconsistent with the provisions of this section, or any rule, regulation, or order issued thereunder.

EXPIRATION DATE

Sec. 107. (a) This title shall expire on midnight, April 15, 1976.

(b) The expiration of this title and the authority granted under this title shall not affect any action or pending proceedings not finally determined on the date of such expiration, or any action or proceeding based upon any act committed prior to such date.

TITLE II—NATURAL GAS ACT AMENDMENTS

Sec. 201. This title may be cited as the "Natural Gas Act Amendments of 1975".

Sec. 202. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a) (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"(a) This Act may be cited as the 'Natural Gas Act'."

Sec. 203. Section 1(c) of the Natural Gas Act, as redesignated by this title (15 U.S.C. 717(b)), is amended (1) by deleting "The" at the beginning thereof and by inserting in lieu thereof immediately after "(c)" the following: "(1) Except as provided in paragraph (2) of this subsection, the"; and (2) by inserting at the end thereof the following new paragraph:

"(2) Subject only to the provisions of section 24 of this Act, after the effective date of the Natural Gas Act Amendments of 1975, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided, however,* That nothing contained in the Natural Gas Act Amendments of 1975 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas, or (B) regulate sales for resale of natural gas by any natural gas company which transports natural gas in interstate commerce or by an affiliate thereof which transports natural gas in interstate commerce."

Sec. 204. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by redesignating paragraphs (7) through (9) as paragraphs (12) through (14), and by inserting the following new paragraphs:

"(7) 'Boiler fuel use of natural gas' means the use of natural gas as the source of fuel in a generating unit of more than 25 megawatts rated net generating capacity or in any unit which is part of an electric utilities system with a total net generating capacity of more than 150 megawatts for the purpose of generating electricity for distribution.

"(8) 'New natural gas' means natural gas sold or delivered in interstate commerce (A) which is dedicated to interstate commerce for the first time on or after January 1, 1976, or (B) which is continued in interstate commerce after the expiration of a contract by its own terms (and not through the exercise of any power to terminate or renegotiate contained therein) for the sale or delivery of such natural gas existing as of such date, or (C) which is produced from wells commenced on or after January 1, 1976.

"(9) 'Old natural gas' means natural gas other than new natural gas.

"(10) 'Affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person, as determined by the Commission pursuant to its rulemaking authority.

"(11) 'Offshore federal lands' means 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))."

Sec. 205. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for the sale of new natural gas produced from offshore federal lands shall be deemed to be just and reasonable, if they do not exceed the applicable national ceiling, established by regulation of the Commission or subsequently modified by the Commission pursuant to section 24 of this Act, in effect at the time when such new natural gas is either first sold or first transferred under such contract to a natural-gas company: *Provided, however,* That rates and charges in excess of such national ceiling may be authorized by the Commission to provide special relief to meet extraordinary expenses that could not be anticipated at the time the national ceiling was established or modified."

(b) Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: "Notwithstanding the foregoing, the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the national ceiling, established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act."

Sec. 206. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: *Provided further,* That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale,

cept (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the national ceiling, established or modified by the Commission pursuant to section 4 of this Act, or (B) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act."

SEC. 207. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following new subsection:

(h) (1) The Commission is further authorized and directed to conduct studies of the production, gathering, storage, transportation, distribution, and sale of natural, artificial, or synthetic gas, however produced, throughout the United States and its possessions whether or not otherwise subject to the jurisdiction of the Commission, including the production, gathering, storage, transportation, distribution, and sale of natural artificial or synthetic gas by any agency, authority, or instrumentality of the United States, or of any State or municipality or political subdivision of a State. It shall, insofar as practicable, secure and keep current information regarding the ownership, operation, management, and control of all facilities for production, gathering, storage, transportation, distribution, and sale; the total estimated natural gas reserves of fields or reservoirs and the current utilization of natural gas and the relationship between the two; the cost of production, gathering, storage, transportation, distribution, and sale; the rates, charges, and contracts in respect to the sale of natural gas and its service to residential, rural, and commercial and industrial consumers, and other purchasers by private and public agencies; and the relation of any and all such facts to the development of conservation, industry, commerce, and the national defense. The Commission shall report to Congress and may publish and make available the results of studies made under the authority of this subsection.

"(2) In making studies, investigations, and reports under this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing departments, bureaus, offices, agencies, and other entities of the United States, of the several States, and of the natural-gas industry, but such studies, investigations, and reports shall be based on information developed, or completely reviewed for accuracy, after the date of enactment of this subsection. Nothing in this section shall be construed as modifying, reassignment, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other department, bureau, office, or agency in the Federal Government.

"(3) In order to assist in determining necessary actions to eliminate the national emergency which exists with respect to natural gas supplies the Commission shall carry out and complete, not later than 90 days after the date of enactment of this subsection, an initial such study with respect to the total estimated natural gas reserves of fields and reservoirs and the current utilization of natural gas and the relationship between the two. Such study shall include specific estimates for individual fields and reservoirs but shall not include reserves controlled by small producers. On January 1,

1977, and at the beginning of each calendar year thereafter until December 31, 1981, the Commission shall, within the following 90-day period, complete a review of the previous study and revise the results thereof to the extent necessary. A report of such initial study and each such review shall be made, within the time provided for completion thereof, to the President and the Congress."

SEC. 208. The Natural Gas Act, as amended by this title, is further amended by adding at the end thereof the following heading and three new sections:

"NATIONAL CEILING FOR RATES AND CHARGES

"SEC. 24. (a) The Commission shall, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1975, and pursuant to rulemaking procedures under section 553 of title 5, United States Code, establish by regulation, and may from time to time modify, a national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas produced from offshore Federal lands on or after January 1, 1976, through December 31, 1980. In establishing such national ceiling the Commission shall consider the following factors and only these factors:

"(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of natural gas;

"(2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas;

"(3) the promotion of sound conservation practices in natural gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"(b) The Commission shall monitor the national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas, and during the period such ceiling is in effect, commencing on July 1, 1976, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling in meeting the factors set forth in subsection (a) of this section.

"(c) The Commission may authorize a person to charge an amount in excess of such national ceiling for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth as designated by the Commission pursuant to its rulemaking authority. In establishing such amount in excess of such national ceiling, the Commission shall consider the factors set forth in subsection (a) of this section and only those factors.

"(d) Any contract entered into after the date of enactment of the Natural Gas Act Amendments of 1975 for the sale of new natural gas for resale which involves the receipt by the seller of funds in advance of production of the natural gas covered by such contract shall be filed with the Commission at least 60 days in advance of deliveries thereunder. The Commission may thereafter require, after notice and opportunity for hearing, that the sales rate specified in such contract be reduced or modified as necessary to repay in full to the advancing party the principal of the advance and any interest thereon, upon such terms and conditions as the Commission may determine proper in the public interest.

"(e) Within 30 days after the enactment of the Natural Gas Act Amendments of 1975

and on January first of each year thereafter until the establishment of the national ceiling pursuant to subsection (a) of this section by a final Commission order which is no longer subject to judicial review, the Commission shall establish an interim national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas produced from offshore Federal lands which shall be equivalent to the average dollar valuation per barrel of crude oil used by the United States Geological Survey or its successor in computing the royalties due to the United States on account of crude oil produced from all Federal lands during the calendar month ending 30 days prior to such computation. Such interim national ceiling shall be expressed in one million British thermal units and shall be determined by dividing such average dollar valuation per barrel of crude oil by 5.8. Such interim national ceiling shall cease to have effect on the date of the establishment of the national ceiling pursuant to subsection (a) of this section by final Commission order which is no longer subject to judicial review, such national ceiling shall apply to the sale or transfer in interstate commerce of all new natural gas produced from offshore Federal lands whether or not contracted for prior to the date of such establishment: *Provided, however,* That the Commission shall have no power to order a reduction in the rates and charges for the sale of new natural gas produced from offshore Federal lands and contracted for prior to the date of the establishment of such national ceiling below the interim ceiling price in effect on such date.

"NATURAL GAS FOR ESSENTIAL AGRICULTURE PURPOSES

SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar services vital to public health and safety, and notwithstanding any other provision of law or of any natural-gas allocation or curtailment plan in effect under existing law, the Commission shall, by rule, prohibit any interruption or curtailment of natural gas and take such other steps as are necessary to assure as soon as practicable the availability in interstate commerce of sufficient quantities of natural gas for use for any essential agricultural, food processing, or food packaging purpose for which natural gas is essential, including but not limited to irrigation pumping, crop drying, use as a raw material foodstock or process fuel in the production of fertilizer and essential agricultural chemicals in existing plants (for present or expanded capacity) and in new plants. The Secretary of Agriculture shall determine by rule the agricultural, food processing, or food packaging purposes for which natural gas is essential. The Secretary of Agriculture shall also certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"ESSENTIAL INDUSTRIAL PURPOSES

"(b) Except to the extent that natural gas supplies are required to maintain natural-gas service to users specified under subsection (a), the Commission shall exercise its authority under this title to assure, to the maximum extent feasible, the continuance of natural gas service to users using natural gas as a raw material and for purposes other than boiler fuel for which there is no available substitute regardless of whether such users purchase natural gas under firm or interruptible contracts.

"NATURAL GAS CONSERVATION

"Sec. 26. (a) Except as provided in subsection (d) of this section, the Commission shall by rule prohibit boiler fuel use of natural gas affecting commerce not contracted

* prior to January 1, 1976, unless, upon petition by the user, the Commission determines that—

"(1) alternative fuels, other than crude oil or products refined therefrom and propane, are not available to such user; or

"(2) it is not feasible or practicable to utilize such alternative fuels at the time of such Commission determination.

"(b) Except as provided in subsection (d) of this section, boiler fuel use of natural gas contracted for prior to January 1, 1975, shall be terminated by the user of such natural gas at the expiration of such contract or 12 years after the date of enactment of the Natural Gas Act Amendments of 1975, whichever is earlier, unless, upon petition of such user, the Commission determines that (1) alternative fuels, other than crude oil or products therefrom and propane, are not available to such user, or (2) it is not feasible or practicable to utilize such alternative fuels at the time of such Commission determination. The Commission shall modify or terminate certificates of public convenience and necessity relating to such contracts to the extent necessary to carry out the purpose of this subsection.

"(c) Except as expressly provided in subsection (b) of this section, the Commission or other federal agency, administration or department shall not (1) modify, amend, or abrogate contracts entered into prior to January 1, 1976, for the sale or transportation of natural gas for boiler fuel use; (2) modify, amend, or abrogate certificates of public convenience and necessity authorizing the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the performance of any such contract or certificate: *Provided, however,* That the provisions of this subsection shall not otherwise modify or affect the authority of the Commission under this Act.

"(d) The Commission shall also exempt from any rule under this section the burning of natural gas by powerplants for the purpose of operating pollution abatement systems.

"(e) The Commission shall not prohibit the boiler fuel use of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a facility, or for the purpose of alleviating short-term air quality emergencies or any other danger to the public health, safety, or welfare.

"(f) In implementing the provisions of this section, the Commission shall, to the extent necessary, apply the provisions of section 17 of this Act.

"(g) Nothing in this section shall impair any requirement in any State or Federal law pertaining to safety or environmental protection. The Commission, in determining feasibility or practicality where required by this section, shall not assume that there will be any lessening in any safety or environmental requirement established pursuant to State or Federal law."

Sec. 209. Section 2 of the Natural Gas Act as designated by this Act (15 U.S.C. 717), is amended by inserting at the end thereof a new subsection as follows:

"(d) Nothing in this Act shall prevent the interstate transportation of natural gas first sold in commerce after the date of enactment of this subsection in an interstate pipeline as long as such interstate transportation does not prevent service necessary to meet the requirements of interstate consumers and the rates for such transportation reflect the fully distributive costs of the interstate facilities used therein, and the provisions of this Act shall not apply to any such intrastate transportation or the facilities utilized in such service."

H.R. 9721

By Mr. GRASSLEY:

Page 3, strike out lines 20 through 24. Redesignate the succeeding sections accordingly.

By Mr. ROUSSELOT:

Beginning on page 5, line 19, strike all that follows through page 10, line 12.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5 (d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of December 1, 1975 (page H11570).

H.R. 10300.—October 22, 1975. Veterans' Affairs. Stipulates that the plot and interment allowance paid by the Administrator of Veterans' Affairs, for veterans not buried in a national cemetery, shall not be reduced when such sum is paid to reimburse a State or local government for plot or interment expenses paid or assumed, if the deceased veteran is buried in a cemetery which is owned by such State or local government and solely or primarily used for the interment of veterans.

H.R. 10301.—October 22, 1975. Judiciary. Amends the Administrative Procedure Act to permit interested parties an automatic extension of time for submission of comments regarding contested matters upon request to the administrative officer involved unless other considerations outweigh the desirability of such extension. Imposes additional requirements for public notice of proposed rule-making upon Executive departments and agencies.

H.R. 10302.—October 22, 1975. Interstate and Foreign Commerce. Amends the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act to require warrantors (1) to refund or replace defective new motor vehicles not withstanding encumbrances on such vehicles; (2) to extend new motor vehicle warranties in certain instances for the period of time a consumer is deprived of the use of a new motor vehicle; and (3) to provide a substitute motor vehicle during periods in which the consumer is deprived of the use of a new motor vehicle due to defect or malfunction.

H.R. 10303.—October 22, 1975. Judiciary. Authorizes the United States to pay attorney's fees and other costs to the defendant in Federal criminal cases when the court determines that such payments are in the interest of justice.

H.R. 10304.—October 22, 1975. Judiciary. Includes bodies politic in the category of persons who may be sued for depriving any citizen of rights secured under the Constitution and laws of the United States.

H.R. 10305.—October 22, 1975. Government Operations. Prohibits Federal agencies from purchasing, hiring, leasing, operating or maintaining limousines, and from employing chauffeurs to operate such limousines, except for certain designated Federal officers.

H.R. 10306.—October 22, 1975. Public Works and Transportation. Authorizes the Administrator of General Services to acquire certain property in the District of Columbia for refurbishing and use by the Federal Government.

H.R. 10307.—October 22, 1975. Interior and Insular Affairs. Establishes the Nantucket Sound Islands Trust in Massachusetts. Creates commissions to regulate construction of any improvements on lands and waters within the trust area and to provide for the preservation and conservation of the area.

Designated Noman's Land Island in Massachusetts as part of the National Wildlife Refuge System.

Directs such commissions to develop land use control plans for the trust area and to identify new employment opportunities for residents of the area.

H.R. 10308.—October 22, 1975. Ways and Means. Amends the Internal Revenue Code to repeal the authority of the Secretary of the Treasury to pay a sum for the detection and bringing to trial and punishment of persons guilty of violating the internal revenue laws.

H.R. 10309.—October 22, 1975. Veterans' Affairs. Directs the Administrator of Veterans' Affairs, when any former member of the Armed Forces dies in an Armed Forces hospital, to transport the body to the place of burial in the same or any other state.

H.R. 10310.—October 22, 1975. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to transfer certain former members of the Armed Forces, who are entitled to retired, retainer, or equivalent pay, to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care.

H.R. 10311.—October 22, 1975. Veterans' Affairs. Extends the entitlement of veterans to educational assistance from thirty-six months to forty-five months.

H.R. 10312.—October 22, 1975. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to pay service pensions to certain World War I veterans, their widows, and their children.

H.R. 10313.—October 22, 1975. Veterans' Affairs. Requires that certain increases in monthly social security or railroad retirement benefits be disregarded by the Administrator of Veterans' Affairs when determining a person's annual income for the purpose of determining the veterans' pension payable to such person.

H.R. 10314.—October 22, 1975. Ways and Means. Amends the Social Security Act to maintain the inpatient hospital deductible under the medicare program at its 1975 level.

H.R. 10315.—October 22, 1975. Government Operations. Requires, with certain exceptions, that meetings of Government agencies be open to the public.

H.R. 10316.—October 22, 1975. Merchant Marine and Fisheries. Directs the Secretary of the Interior to regulate the trapping and capture of mammals and birds on Federal lands. Establishes an advisory commission to recommend to the Secretary acceptable methods for trapping and capture of mammals and birds.

Prohibits use of unacceptable traps in interstate or foreign commerce. Prescribes regulations to prohibit the interstate shipment of hide, skin, feathers, or resulting products of the use of unacceptable traps.

H.R. 10317.—October 22, 1975. Ways and Means. Amends the Social Security Act by requiring skilled nursing facilities participating in the Medicare program to comply with relevant provisions of the 1973 edition of the Life Safety Code of the National Fire Protection Association.

H.R. 10318.—October 22, 1975. Interstate and Foreign Commerce. Grants authority to the Administrator of the Environmental Protection Agency to (1) establish test standards for any drug that may present an unreasonable risk to health or the environment; (2) require 90 days' notice when any manufacturer is planning to manufacture or import a new drug; (3) prescribe rules for the distribution or use of a chemical substance deemed an unreasonable risk to human health or the environment; and (4) require the revision of inadequate quality control procedures. Exempts pesticides and certain other chemical substances from this Act.

H.R. 10319.—October 22, 1975. Government Operations. Amends the State and Local Fiscal Assistance Act to allow comprehensive



SECTION BY SECTION ANALYSIS

Brown Substitute for H.R. 9464

The Natural Gas Emergency Act of 1975

Section 2. Purpose

- establishes temporary emergency authorities to minimize impact of natural gas shortage on employment, food production, and public health, safety, and welfare.

Section 3. Definitions

- essential user (Sec. 3(2)): as set by the FPC, a user without an alternate fuel capability who needs gas to avoid substantial unemployment, impairment of food production, or impairment of the public health, safety, and welfare.
- new natural gas (Sec. 3(4)): natural gas first sold or delivered in interstate commerce on or after 1/1/75, continued in interstate commerce upon contract expiration, or produced from wells commenced on or after 1/1/75.
- distressed interstate pipelines (Sec. 3(6)): as set by the FPC, an interstate pipeline unlikely to obtain enough gas to meet the needs of the direct and indirect essential users on its system.
- curtailed interstate pipeline (Sec. 3(7)): an interstate pipeline in curtailment.
- supply emergency period (Sec. 3(8)): the period from date of enactment to seven years thereafter.

Section 4. Access By Distressed Interstate Pipelines to Natural Gas

- within 15 days after enactment FPC to designate (upon petition or its own motion) distressed interstate and curtailed interstate pipelines - FPC shall modify designations as necessary during the supply emergency period (Sec. 4(a)).

- from enactment to April 15, 1976, distressed pipelines empowered to buy new natural gas other than OCS gas, at rates free of the Natural Gas Act, and empowered to pass through the rate paid (Sec. 4(b)).
- from April 16, 1976 through April 15, 1977, distressed and curtailed pipelines empowered to purchase new natural gas (including OCS gas) at rates free of the Natural Gas Act, and empowered to pass through the rate paid (Sec. 4(c)).
- from April 16, 1977 through the end of the supply emergency period, any interstate pipeline with a curtailment plan on file with the FPC is empowered to purchase new natural gas (including OCS gas) at rates free of the Natural Gas Act, and is empowered to pass the rate through (Sec. 4(d)).

Section 5. Relationship to Natural Gas Act

- exempts sales of new natural gas, the facilities used therefore and the seller from the Natural Gas Act - sales under the act deemed not to result in interstate dedication of reserves (Sec. 5(a) and (b)).
- transactions entered into during the supply emergency period extend beyond the period free of the Natural Gas Act (Sec. 5(c)).

Section 6. Investigation of Supply Emergency

- DOI to study gas supply and demand, reserves and annual deliverability, probable reserve additions and deliverability, and report to Congress.

Section 7. Rulemaking

- FPC authorized to issue rules necessary to effect the Act.

94TH CONGRESS
1ST SESSION

H. R. 11047

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 1975

Mr. BROWN of Ohio introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To assure the availability of adequate supplies of natural gas during a supply emergency period.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Natural Gas Emergency
4 Act of 1975".

PURPOSE

6 SEC. 2. The purpose of this Act is to establish tem-
7 porary emergency authorities for minimizing the detrimental
8 effects on employment, food production, and public health,
9 safety, and welfare caused by natural gas supply shortages.



DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Commission" means the Federal Power Commission.

(2) The term "essential user" means a user or class of user who satisfies criteria to be established by the Commission, by rule, as indicative of a user for which no alternative fuel is reasonably available and whose supply requirements must be met in order to avoid substantial unemployment or impairment of food production or the public health, safety, or welfare.

(3) The term "interstate commerce" has the same meaning as such term has in section 2 (7) of the Natural Gas Act (15 U.S.C. 717 (a) (7)).

(4) The term "new natural gas" means natural gas sold or delivered in interstate commerce (A) which is sold or delivered in interstate commerce for the first time on or after January 1, 1975; (B) which is continued in interstate commerce after the expiration of a contract by its own terms (and not through the exercise of any power to terminate or renegotiate contained therein) for the sale or delivery of such natural gas existing as of such date; or (C) which is produced from wells commenced on or after such date.

(5) The term "interstate pipeline" means a person engaged in the transportation by pipeline of natural gas in



1 interstate commerce and subject to the jurisdiction of the
2 Commission under the Natural Gas Act (15 U.S.C. 717
3 et seq.).

4 (6) The term "distressed interstate pipeline" means any
5 interstate pipeline which the Commission, taking into account
6 any existing curtailment plan of such pipeline and the natural
7 gas supplies available to such pipeline, determines is, to a
8 significant extent, unlikely to obtain supplies of natural gas
9 adequate to meet the requirements of essential users under
10 any agreement (without regard to whether such agree-
11 ment is for interruptible or firm service) to supply natural
12 gas to such user by—

13 (A) such pipeline; or

14 (B) a person to which such pipeline supplies
15 natural gas for purposes of resale.

16 (7) The term "curtailed interstate pipeline" means any
17 interstate pipeline which has a curtailment plan, or other
18 plan for reduced deliveries on file with the Commission, and
19 which is curtailing or reducing deliveries under said plan.

20 (8) The term "supply emergency period" means the
21 period, or any part thereof, which begins on the date of
22 enactment of this Act and ends seven years thereafter.

23 (9) The term "national rate" means the maximum rate
24 of price ceiling for natural gas sales established pursuant to



1 the provisions of title 18, Code of Federal Regulations, sec-
2 tion 2.56 (a).

3 ACCESS BY DISTRESSED INTERSTATE PIPELINES TO
4 NATURAL GAS

5 SEC. 4. (a) The Commission shall, not later than the
6 end of the fifteen-day period which begins on the date of
7 enactment of this Act, and shall as necessary throughout the
8 supply emergency period, upon petition or upon its own
9 motion, designate distressed interstate pipelines and curtailed
10 interstate pipelines.

11 (b) During that part of the supply emergency period
12 which extends from the date of enactment through April 15,
13 1976, sales of new natural gas produced from lands other
14 than the Outer Continental Shelf may be made to any dis-
15 tressed interstate pipeline for resale in interstate commerce
16 at a rate or charge in excess of the national rate and any such
17 rate or charge shall not be subject to the provisions of the
18 Natural Gas Act: *Provided, however,* That the Commission
19 shall have no power to deny, in whole or in part, recovery
20 by any distressed interstate pipeline of the amounts paid by
21 it for gas purchased hereunder.

22 (c) During that part of the supply emergency period
23 which extends from April 16, 1976, through April 15, 1977,
24 sales of new natural gas may be made to any distressed or
25 curtailed interstate pipeline for resale in interstate commerce



1 at a rate or charge in excess of the national rate and any such
2 rate or charge shall not be subject to the provisions of the
3 Natural Gas Act: *Provided, however,* That the Commission
4 shall have no power to deny, in whole or in part, recovery
5 by any distressed or curtailed interstate pipeline of the
6 amounts paid by it for gas purchased hereunder.

7 (d) During the remainder of the supply emergency
8 period, sales of new natural gas for resale in interstate com-
9 merce may be made to any interstate pipeline which has a
10 curtailment plan, or other plan for reduced deliveries, on file
11 with the Commission at a rate or charge in excess of the
12 national rate and any such rate or charge shall not be subject
13 to the provisions of the Natural Gas Act: *Provided, however,*
14 That the Commission shall have no power to deny, in whole
15 or in part, recovery by any such pipeline of the amounts paid
16 by it for gas purchased hereunder.

17 RELATIONSHIP TO THE NATURAL GAS ACT

18 SEC. 5. (a) The provisions of the Natural Gas Act shall
19 not apply to any sale or contract of sale of new natural gas
20 made pursuant to this Act, to the facilities used in such sale,
21 or to the seller making such sale.

22 (b) Natural gas reserves, from which new natural gas
23 subject to any such sale is produced, shall not be deemed
24 dedicated to interstate commerce by reason of such sale.

25 (c) Upon termination of the supply emergency period,



1 no transactions made or entered into, and no activities or
2 operations undertaken after April 16, 1976 shall, under the
3 provisions of this act, be or become subject to the provisions
4 of the Natural Gas Act, and the Commission shall take no
5 action to impair or modify, or prevent full performance of,
6 any and all contract rights and obligations which arose dur-
7 ing the supply emergency period; further, during the period
8 following termination of the supply emergency period, as to
9 those sales entered into during the supply emergency period,
10 the Commission shall have no power to deny in whole or
11 in part recovery by any such pipeline of the amounts paid
12 by it for gas purchased hereunder.

13 INVESTIGATION OF SUPPLY EMERGENCY

14 SEC. 6. (a) The President, through the Department of
15 the Interior, shall undertake a study of natural gas supply
16 and demand, and shall determine the total estimated natural
17 gas reserves of the United States, and the estimated annual
18 deliverability of natural gas from such reserves; the probable
19 additions to such reserves and deliverability; the total esti-
20 mated demand for natural gas by users receiving natural gas
21 in interstate commerce, by end-usage classification of users;
22 and the probable increase, or decrease, in demand by end-use
23 purchasers.

24 (b) Such study shall be based on information developed,
25 or completely verified for accuracy, after the date of enact-



1 ment of this Act. A copy of the completed study shall be
2 transmitted, in writing, to the Congress as soon as practicable
3 after completion.

4 RULEMAKING

5 SEC. 7. The Commission shall have authority to issue
6 rules and orders, as the Commission determines are necessary
7 or appropriate to the exercise of the jurisdiction granted
8 under this Act.



94TH CONGRESS
1ST SESSION

H. R. 11047



A BILL

To assure the availability of adequate supplies
of natural gas during a supply emergency
period.

By Mr. BROWN of Ohio

DECEMBER 8, 1975

Referred to the Committee on Interstate and Foreign
Commerce

H.R. 9159 FRASER

SECTION BY SECTION ANALYSIS

Natural Gas Production and Conservation Act of 1975

Section 2.

- amends the Natural Gas Act by striking section 24, which reads "This act may be cited as the 'Natural Gas Act,'" by adding the same language before section 1 of the Act, and by relabeling as "Title I General Provisions" the remaining 23 sections of the Act.

Section 3.

- adds a new Title II, "Production and Conservation Incentives," to the Act -- the new title contains ten sections, §§201-210, as follows:
- §201 is the short title: The Natural Gas Production and Conservation Act.
- §202 is the definition section, with 20 definitions. The key definition is that for "new natural gas" (§202(9)): gas dedicated to interstate or intrastate commerce on or after January 1, 1975, as determined by the FPC in its discretion -- new gas is required to be dedicated for a term of not less than ten years. Old gas is defined (§202(10)) as gas dedicated to interstate commerce prior to January 1, 1975, as determined by the FPC in its discretion.
- §203 is the "new natural gas" pricing section. Under this section -
 - the FPC has 180 days from enactment to set an initial national base price for new gas -- the price must be not less than 40¢ and not more than 60¢ per Mcf -- the initial price is retroactive to 1/1/75 and is to be reviewed and reset every five years -- if within the price range, the FPC initial base price is not subject to judicial review. (§203(g)).

- the initial national base price shall be adjusted for inflation or deflation (§203(b)), for rising production costs (§203(c)), and for gathering allowances, taxes, Btu adjustment, and impurity removal (§203(f)) -- a special price above the base may be authorized by the FPC for high cost production areas and for LNG and SNG (§203(d)).
- new gas may be sold or transferred in either interstate or intrastate commerce by a producer only if the price does not exceed the adjusted base price set in §203 (§203(a)) -- producers are prohibited from selling at new gas prices, and must sell at old gas prices, gas discovered on Federal lands two years or more prior to enactment, unless they are able to convince the FPC it was reasonable not to dedicate the gas to interstate commerce (§203(e)).
- the cost of new gas to an interstate pipeline can be passed through by the pipeline dollar for dollar unless the cost exceeds the adjusted base price -- the excess can't be passed through (§203(i)).
- after enactment, all sales of new gas in interstate commerce and all dedications of natural gas in intrastate commerce must comply with the bill's new gas provisions (§203(j)).
- small producers may sell new gas at prices not to exceed the base price by more than 50 percent (§203(k)).
- the FPC obtains jurisdiction over SNG plants and ownership, and the interstate sale and transportation of SNG, but not the feedstock (§203(d)(2)).
- §204 requires all purchasers to file new gas contracts and transfer agreements with the FPC.
- §205 restricts FPC price increases for old gas to increases necessary to cover production costs and to provide a reasonable return.

- §206 requires^c interstate pipelines to file separate tariffs for old gas, new gas, and SNG/LNG, and requires these pipelines and the distributors they serve to give priority for sales of old gas to residential users and small users.
- §207 contains provisions dealing with increasing gas supplies.
 - FPC must act on facility construction applications within 120 days of the filing of the application (§207(a)).
 - new gas sales by producers, other than SNG/LNG sales, are exempt from FPC sales certificate jurisdiction if the sale price is within the new gas pricing provisions of the bill (§207(b)).
 - facilities for transporting or gathering gas on Federal lands are required to be common carriers -- other such facilities are required to be common carriers to the extent of surplus capacity (§207(c)).
 - a production schedule must be established for Federal lands gas and oil development under DOI supervision--gas must be contracted for sale in interstate commerce within two years after discovery or is forfeited along with the lease and all lease payments (§207(d),(e)).
 - FPC is directed to gather reserve information and to make a comprehensive study of the gas industry (§207(g)).
- §208 requires the FPC to prohibit all post-1/1/75 boiler fuel use of gas, including intrastate use, other than by residential users and small users, unless the FPC determines alternate fuels other than oil are not available or their use would be infeasible -- pre-1/1/75 boiler fuel use to be prohibited as soon as practicable.

- §209 requires the FPC to prohibit curtailment of essential agricultural uses of gas, as determined by the Secretary of Agriculture, except to maintain service to residences, small users, hospitals and the like -- the prohibition applies to intrastate gas in any State where action consistent with the purpose of this provision has not been taken within 180 days of enactment (§209(a)).
- FPC empowered to order interstate pipeline interconnections (§209(b)) and, in supply emergencies, is empowered to allocate gas to interstate pipelines unable to meet residential, small user, hospital or the like needs (§209(c)).
- §210 prohibits, upon enactment, any major integrated petroleum company (i.e., an oil company with assets exceeding \$1 billion) from engaging with any other such company in a joint venture for acquisition of gas or oil development rights on Federal lands.

Section 4.

- amends Section 2 of the Natural Gas Act (the definitional section) in three respects -
 - it would include in the definition of "interstate commerce" (Natural Gas Act, §2(7)) commerce between a point on Federal lands and any other point, whether within a state or not.
 - it would add a new section 2(10), a definition for "synthetic natural gas," which would be gas produced from any source other than gas well gas and oil well gas.
 - it would revise the definition of "natural gas" (Natural Gas Act, §2(5)) to include gas from both gas and oil wells, and to include any mixture of "synthetic" gas (the new element) in with gas (terms now in the Act).

"natural" or
"artificial"



Section 5.

- expands section 20 of the Act, dealing with enforcement, to give U.S. district courts jurisdiction over civil enforcement actions under the Act and any regulations and certificates issued pursuant to the Act -- this jurisdiction would include the power to grant equitable relief (including mandamus), and the power to award costs (including attorney's fees) and damages (compensatory and punitive).

Section 6.

- requires DOI's Bureau of Economic Analysis to continue to compile GNP deflator data -- this data is required by section 3/203(b) of the bill.

Section 7.

- provides that if any part of the bill is held invalid, the validity of all other parts is unaffected.