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ACTION MEMORANDUM

THE WHITE HOUSE

WASHINGTON

LOG NO.:

Date: September 8, 1975

Time:

FOR ACTION:

cc (for information):

Phil BuchenJim Cannon

Max Friedersdorf

Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: September 9, 1975

Time: NOON

SUBJECT:

NATURAL GAS PROPOSAL

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

No objection
*PWB**by D.C. 9/9/75**Note typo on page 5 of the bill*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

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The Counsel's office has no objections.

*P.W.B.*Philip W. Buchen
Counsel to the PresidentPLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

9:45 a.m.

Tuesday, September 9, 1975

Dudley has reviewed the Natural Gas Shortages memo and thinks it is a good paper. Has no changes to suggest.



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

OFFICE OF THE ADMINISTRATOR

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

Dear Mr. President:

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

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

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

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



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

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

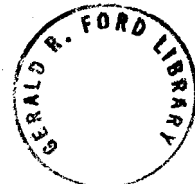
Because certain areas of the country, particularly the Mid-Atlantic and Midwestern States, face especially serious potential shortages, I urge prompt Congressional action to enact this legislation. Without such action, we will lack the ability to respond to these serious situations in the timely and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

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

Sincerely,

Frank G. Zarb
Administrator

enclosure



FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

OFFICE OF THE ADMINISTRATOR

Honorable Carl Albert
Speaker of the House
of Representatives
Washington, D. C. 20515

Dear Mr. Speaker:

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Section by Section Analysis
Natural Gas Emergency Standby Act of 1975

Title I

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

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

Title II

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

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

Section 203. Definitions.

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



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

Title III

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

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

Section 303. Definitions.

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



Title IV

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

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

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

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



Title V

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

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

Section 503. Definitions.

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

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

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



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

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

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

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

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

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

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



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

Title VI

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

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



A BILL

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

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

Title I

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

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

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



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

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

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

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

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



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

Title II

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

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

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

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

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

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



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

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

Title III

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

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



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

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

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

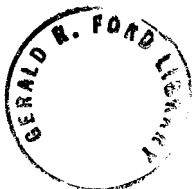
"(d) The provisions of this Act shall not apply to the use of the facilities of a gas distributing company for the transportation of natural gas produced by an independent producer from lands, other than any land or subsurface area within the Outer Continental Shelf as defined in section 2(a) of the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



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

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

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



Title IV

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

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

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

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

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

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

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



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

"(A) the Administrator determines that:

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

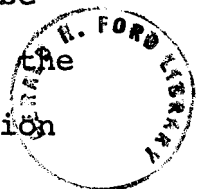
"(ii) an order under subsection (a) may not be issued with respect to such powerplant or installation,

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

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

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

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



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

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

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

Title V

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

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

Section 503. For purposes of this Title, the following



terms shall have the following meanings:

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

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

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

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

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

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



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

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

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



in detail in such rule, regulation, or order.

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

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

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

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

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



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



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

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

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



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

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



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

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

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



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

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

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



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

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

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



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

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

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

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

Title VI

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

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



THE WHITE HOUSE
WASHINGTON
September 22, 1975

FEA
Holt
12

MEMORANDUM FOR

THE HONORABLE FRANK ZARB
ADMINISTRATOR,
FEDERAL ENERGY ADMINISTRATION

The attached is a copy of a letter to the President from Lee C. White, Chairman, Energy Policy Task Force. He was Counsel to the President in a previous Administration, and I would appreciate your giving consideration to the issues raised and suggesting a response I could send him in behalf of the President.

P.W.B.

Philip W. Buchen
Counsel to the President

Attachment



Friday 9/19/75

1:10 Lee White, who used to be Counsel to the President in earlier days, feels very strongly that this information should get to the President and feels, if it is just mailed over here, it will get "lost in the shuffle."

He asks if you would please read it and see if you feel as he does.



energy policy task force

1012 14th STREET, N.W. • SUITE 901 • WASHINGTON, D.C. 20005 • (202) 737-3732

LEE C. WHITE, CHAIRMAN

ELLEN BERMAN, DIRECTOR

September 19, 1975

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

The Senate is about to begin debate on legislation intended to provide emergency relief for those residential and industrial natural gas customers whose interstate pipelines are in short supply and where significant curtailments are anticipated in the heating season that is very nearly upon us. There is, of course, a strong desire on the part of all citizens to support emergency measures that might be able to alleviate such a situation, and this includes those who are and have been engaged in a long and even bitter conflict over how the nation's natural gas industry ought to be treated on a long-term basis.

The manner in which consideration of emergency legislation is handled can make an enormous difference to those who may well be the victims of the shortage, and it behooves all of the participants to understand clearly and without any doubt the ground rules that ought to be employed in these debates.

The Administration's Bill (S. 2330) and the bills introduced by Senators Hollings, Glenn and Talmadge (S. 2310) and Congressman Dingell (H.R. 9464) undertake to treat the emergency situation by authorizing interstate pipelines to purchase natural gas in the intrastate market for delivery to gas distribution companies and industrial users that otherwise would be curtailed during the heating season. Consumer groups are as anxious as any other segment of our society to avoid unnecessary hardship in the form of potential hazard to the health and safety, unemployment and sharp inconvenience for tens or hundreds of thousands of citizens. Of the two alternative approaches, we strongly prefer the additional protective devices that are contained in the Hollings, Glenn, Talmadge and Dingell proposals and intend to suggest some additional protective provisions.



The President
September 19, 1975
Page Two

Our concern is that in the handling of the emergency legislation, efforts will be made to insert into the deliberations the more complex and controversial features of the long-term re-structuring of the Natural Gas Act that has plagued the Congress for three or four years. We, of course, have our views on what is the better approach to the long-term solutions to the natural gas situation, and we recognize that many others have completely different views. The point we wish to make, however, is that, unless these two issues --the emergency legislation to handle this year's curtailments and the long-term amendments to the Natural Gas Act--are kept separate and distinct, there is an excellent chance that the entire emergency effort will be lost in time to be of any assistance this winter.

Because of the urgency of the situation, it is our intention to support some form of emergency relief, despite our belief that even a temporary and partial abandonment of regulation of natural gas prices is not a wise policy.

We believe you can make a very significant contribution to the effort to pass limited emergency legislation by using the power and prestige of your office to urge all Members of Congress, regardless of their positions and views on the longer range natural gas problems to resist attempts to tie the short-term and long-term problems together.

It would be cruel and hypocritical to use the plight of unfortunate people as a pawn in the longer game that must soon be played out. Our voice may not be strong, but we certainly will do all within our power to maintain a clean separation between these two issues, and we urge you as sincerely as we know how to lend your efforts to achieve that goal. If this can be accomplished, prospects for enacting satisfactory emergency legislation will be greatly enhanced.

Respectfully,


Lee C. White



ENERGY POLICY TASK FORCE MEMBER ORGANIZATIONS

Adams Electric Cooperative, Inc.
AFL-CIO
Allegheny Electric Cooperative, Inc.
American Federation of State, County and Municipal Employees, AFL-CIO
American Federation of Teachers, AFL-CIO
American Public Gas Association
American Public Power Association
Consumers Union
Cooperative League of the USA
Industrial Union Department, AFL-CIO
International Association of Machinists and Aerospace Workers, AFL-CIO
International Brotherhood of Electrical Workers, AFL-CIO
Kansas Municipal Utilities
Lincoln (Nebraska) Electric System
Maritime Trades Department, AFL-CIO
Minnesota Farmers Union
National Farmers Organization
National Farmers Union
National Rural Electric Cooperation Association
North Dakota Farmers Union
Northeast Missouri Electric Power Cooperative
Northeast Public Power Association
Northwest Public Power Association
Oil, Chemical and Atomic Workers International Union, AFL-CIO
Pennsylvania Rural Electric Association
Service Employees International Union, AFL-CIO
South Dakota Farmers Union
Tennessee Valley Public Power Association
Textile Workers Union of America, AFL-CIO
Tillamook Peoples Utility District
United Auto Workers
United States Conference of Mayors
United Steelworkers of America, AFL-CIO
Washington Public Utility Districts' Association
Wisconsin State AFL-CIO



FEA

THE WHITE HOUSE
WASHINGTON

January 15, 1976

MEMORANDUM FOR: JIM CONNOR
THROUGH: PHIL BUCHEN *P.*
FROM: KEN LAZARUS *KL*
SUBJECT: Zarb Memo Re Alaskan Gas
Transportation

Counsel's Office has reviewed the attached draft Memorandum for the President and supports Option 2, sub-option 2, with two reservations:

- (1) In order to improve our initial bargaining posture vis-a-vis the Congress and to ensure the constitutional purity of a legislative proposal, provision for Congressional review should be in the form of a joint resolution rather than a concurrent resolution or one-House veto. Obviously, we recognize that this type of review provision would not ultimately emerge from the legislative process.
- (2) In the second paragraph on page 6 of the Memorandum, several alternatives are presented in the event Congress disapproves a Presidential or FPC recommendation. Within the context of Option 2, sub-option 2, the only logical alternatives would be (a) recommend another proposal within a specified period of time; or (b) affirmative legislation. In any event, we would strongly object to provision for judicial review of the substantive decision reached in this area.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: January 14, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen

Jim Cannon

Max Friedersdorf

Jack Marsh

Bill Seidman

Brent Scowcroft

Rogers Morton

FROM THE STAFF SECRETARY

DUE: Date: Thursday, January 15

Time: 3 P.M.

SUBJECT:

Frank Zarb memo 1/14/76 re

Alaskan Gas Transportation Issue Paper

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President





FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

January 14, 1976

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB *gz*

SUBJECT: ALASKAN GAS TRANSPORTATION ISSUE PAPER

Enclosed is an issue paper on possible alternatives to expedite delivery of Alaskan gas to the lower-48 states. Substantial quantities of gas could be available by the early 1980's if construction and the regulatory process proceed on schedule.

The issue paper describes possible legislation to expedite the decision process and limit litigation. This legislation could be announced in the State of the Union Message or subsequent Energy Message.

Enclosure



ISSUE: ALASKAN GAS TRANSPORTATION SYSTEM

What action(s) should the Administration take to expedite selection and approval of one of the two competing Alaskan Gas Transportation Systems?

BACKGROUND

The Nation's need for additional supplies of natural gas necessitates that the gas reserves in Alaska's North Slope be developed and transported to the Lower-48 States at the earliest practicable time and in an economical and environmentally sound manner.

Two proposals for transporting Alaskan Gas to the U. S. are now before the Federal Power Commission (FPC). A recent report by the Department of Interior indicates that either of these systems would be economic and that delays in construction could inflate the ultimate cost of the systems. The two systems are (see Fig. 1):

(1) The Trans Alaska or El Paso proposal (this proposal involves shipment of liquefied natural gas to the West Coast from the Southern Alaska terminus of a pipeline).

(2) The Trans Canada or Arctic Gas proposal.

The Interior study and environmental impact statements have identified some important issues which have to be addressed and resolved:

- There are significant uncertainties with both systems which may delay or even prevent their construction. The Arctic Gas consortium will be heavily resisted by environmentalists and will have to await resolution of Canadian concerns. The El Paso system is dependent on the concept of displacement and will have to overcome possible California objections.*
- The cost to the regional gas consumers will vary between the two systems and may, because of current regulations or pricing practices, burden one group of regional consumers over another. Thus, the final decision may involve revised pricing procedures to distribute equitably the costs of the system.

* Displacement involves replacing the natural gas transported from the Gulf Coast to the West Coast with Alaskan Gas and re-routing the displaced Gulf Coast gas to the East Coast and Midwest.



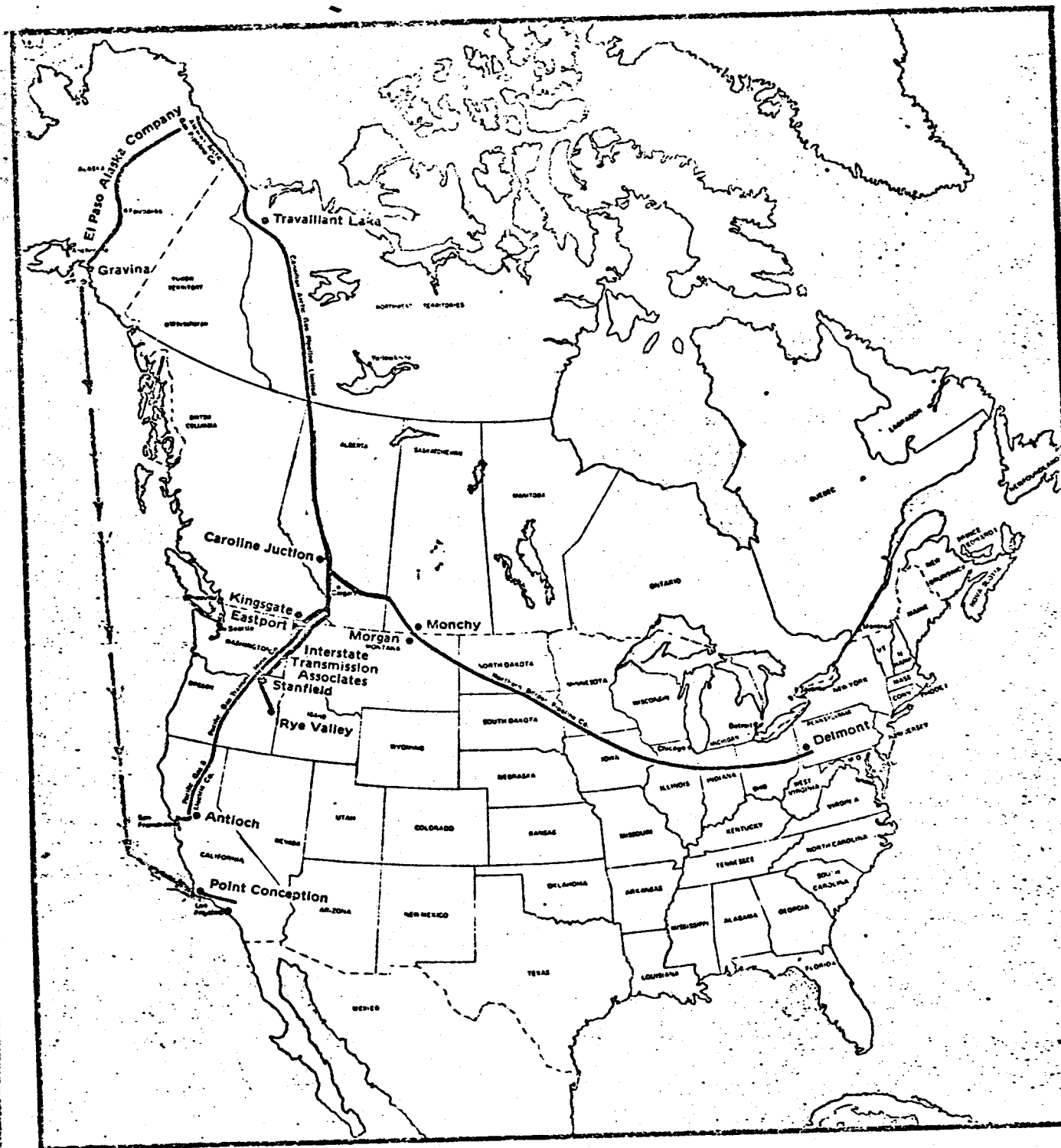
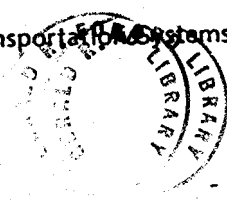


Figure I Proposed Pipeline Routes for the Alaska Natural Gas Transportation System.



Innovative regulatory procedures (such as allowing full cost of service pass-through) and broad participation by those parties benefiting most directly from the project will likely be required if a completely private financing is to be arranged for either of the systems. However, the possibility still exists that Federal financial assistance might become necessary.

Only one of these systems will receive approval.

The current selection procedure will require about one year for FPC approval, and, possibly, several years of litigation on environmental and other grounds. The experience with the Trans-Alaskan Oil Pipeline, in which there was a delay of several years, is an indication of the kind of delays that could evolve (although the environmental impact statement process has improved since then).

In the legislation on the Trans-Alaska Oil Pipeline, Congress directed that all Federal agencies issue the appropriate permits and other certificates and also provided that Federal actions concerning approvals were not subject to judicial review under the National Environmental Policy Act or any other law.

The following Agency actions are expected to be necessary; they illustrate the numerous areas of possible delay:

Federal Power Commission

- Issue a certificate of public convenience and necessity for the construction and operation of the transportation system (including the allowable tariff).
- Authorize gas sale by Prudhoe Bay gas producers.
- Issue certificates of construction of related pipelines by other companies for distribution of gas in the lower-48 States.
- Approve agreements, including quantities and price, between parties affected by proposed displacement if the El Paso proposal is chosen.

Interior Department

- Permits for rights-of-way over Federal land both in Alaska and the lower 48 States.

EPA (and State)

- Permits for discharge of liquid waste into waters of the State -- if relevant.

Corps of Engineers

- Permits for river crossings and for dredging of river bottoms.

Coast Guard

- Various approvals regarding construction and operation of LNG tankers for El Paso project.

Other Federal Agencies

- FMC, Public Health Service, Maritime Administration, FCC.

Individual State Approvals

- Alaska authorization on the Natural Gas Maximum Efficient Rates (MER) of production. Any other State authorization or permits regarding roads, sewage, coastal zone impacts, etc. Some States may institute additional certification requirements to minimize adverse effects or to influence the selection process.

Congressional Situation

To date, several legislative proposals have been introduced in both Houses which would either expedite approval or mandate the selection of one of the competing proposals. At present, it does not appear that there is sufficient Congressional support now for legislation to select either of the alternative routes.

Informal discussions with Senate Commerce Committee staff members indicate some interest in process legislation, but there appears to be no consensus on a particular approach. They also indicate that the Committee members will probably want to hold hearings prior to taking any action on a bill.

Both the FPC and the Interior Department have issued draft Environmental Impact Statements (EIS) on the two proposed systems.

OPTIONS

Option 1. Take no action at this time.

Under this option, no legislative action would be proposed and the current process will be allowed to proceed. It is possible that the Administration could propose legislation after the FPC decision is made, but a decision on this would be deferred.



PROS:

- ° Allows the current regulatory process to continue and to clarify technical, environmental and economic problems that are now unknown. The additional time may help define the type and scope of legislation needed.
- ° To propose legislation at this time would provide Congress with an opportunity to add provisions unwanted by the Administration.

CONS:

- ° May result in greater delay in the final decision, since even if legislation is proposed after the FPC decision, it will have to be considered by a new Congress and will take some time to enact.
- ° Lack of Administration initiative may allow Congress to seize the initiative and either propose expediting legislation or actually select one of the competing proposals.

Option 2. Propose Legislation to Expedite the Decision Process.

Propose legislation setting forth the procedures for review and approval of the selected system, and expediting the decision process.

There are three sub-options:

Sub-option 1

Establish a process in which the FPC would be allowed one year to complete the decision and issue a certificate of convenience and necessity. Certain designated Federal agencies would submit reports to the FPC concerning various aspects of the decision-making process (e.g., EPA on environment; DOT on tanker safety; State on U.S.-Canadian relations, etc.), and FPC would consider the findings in the reports in making its decisions. The Congress would then be given a certain number of months to review and disapprove of the decision. Failure to disapprove the decision would allow the project to proceed and preclude judicial review. In addition, jurisdiction of the courts to review other Federal actions would be removed in the same fashion as in the Trans-Alaskan Oil Pipeline Act, previously described.



PROS:

- ° FPC has established procedures and expertise for deciding such issues.
- ° FPC is an independent regulatory agency, and by involving other agencies, it could reduce Congressional resistance to the process.
- ° Avoids Presidential involvement in a controversial decision.

CONS:

- ° Since the FPC is an independent agency, it would not necessarily have to take into consideration broader executive agency economic, foreign policy, and political considerations.
- ° FPC's ability to consider some important issues, such as the environmental impacts, financing requirements or U.S.-Canadian relationships, is limited.
- ° Would result in a major decision being made by an independent agency, that is not a part of the Administration.

Sub-option 2

Set a period of one year for the FPC and other designated Federal agencies to submit recommendations to the President, who would then make a final recommendation to the Congress. The Congress would have a similar right of disapproval as in Sub-option 1, and judicial review would be limited in the same fashion.

PROS:

- ° Allows the President a role in the decision-making process on this important issue.
- ° Allows better consideration of those issues which FPC may not be equipped to handle.
- ° Allows completion of the FPC process.

CONS:

- ° Could be subject to greater Congressional resistance because of the larger role of the Administration.
- ° Is a more cumbersome procedure.
- ° Will require a controversial decision from the President, which will create ill-will regardless of the outcome.



For both Sub-options 1 and 2, the Congressional review could be either a one-House veto within a specified period of time (60-90 days) or would require a concurrent resolution to disapprove. Congress would probably prefer the one-House veto, as concurrent resolution would make disapproval more difficult.

If Congress disapproves a Presidential or FPC recommendation, there are various possibilities of future action: 1) the FPC would begin its decision-making process again, 2) Congress or the Administration could recommend another proposal within a specified period of time (perhaps 90 days), or 3) the recommendation would remain in effect, but would be subject to normal judicial review, or perhaps expedited judicial review as outlined in Sub-option 3, below. The actual process, in the event of disapproval, would be defined in the legislation.

Sup-option 3

FPC Determination and Expedited Judicial Review

Instruct the FPC to (1) choose between the two systems and make all necessarily related decisions by a specified date and (2) consider the input of interested executive branch agencies which would be required to submit views by a specified earlier date.

The Legislation would also establish an expedited judicial review procedure whereby all interested parties would have to file any suits against the decision within a limited time period (e.g., 60 days), to a specific court (either an existing court or a special court). Judicial review of the non-FPC decisions could either be coordinated in this same court or removed from judicial review altogether as with the Alaska Pipeline legislation, previously described.

PROS:

- ° Allows the final governmental decision to be made by the entity that has the most expertise on most of the technical issues.
- ° Takes the decision out of the political process, thus limiting political conflicts which would otherwise ensue.
- ° Puts all interested parties (governmental and private) on notice that they would have only a limited period in which to participate in the decision-making process and to litigate the FPC determination.



CONS:

- If the court does not allow the FPC decision to stand or refer the issue back to the FPC for reconsideration, the transportation of Alaskan natural gas to the lower 48 States would be considerably delayed (unless Congress intervenes at that point to dictate a prompt decision).
- By taking the decision entirely out of the political process, it does not allow the Executive Branch adequate input to the decision-making process.
- Since there would be no time limit on when a judicial decision may be rendered (as opposed to when suits must be filed), a final decision could be considerably delayed; possibly one year or more beyond the FPC decision.

AGENCY RECOMMENDATIONS

- Option 1 - No action at this time: CEA, OMB, EPA.
- Option 2 - Expediting legislation:
 - Sub-option 1: No agencies support this sub-option.
 - Sub-option 2: FEA, State, Treasury, Commerce, Interior, CIEP.
 - Sub-option 3: No agencies support this sub-option.

PRESIDENTIAL DECISION

Option 1 ____

Option 2

Sub-option 1 ____

Sub-option 2 ____

Sub-option 3 ____

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

LOG NO.: *FE R*

Date: May 30, 1976

Time:

FOR ACTION:

Phil BuchenJim Cannon

Jim Lynn

Max Friedersdorf

FROM THE STAFF SECRETARY

cc (for information):

Jerry Jones

Jack Marsh

Brent Scowcroft

Bill Seidman

DUE: Date: Monday, May 31

Time: 2 P. M.

SUBJECT:

Memorandum from Frank Zarb
dated 5/28/76 re Natural Gas Legislation

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

Favor Option 2.

*P.W.B.*Philip W. Buchen

Counsel to the President

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

- Jim Connor
For the President



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D. C. 20461

May 28, 1976

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB *FZ*

SUBJECT: NATURAL GAS LEGISLATION

BACKGROUND

As indicated to you last week, the Senate Commerce Committee has approved a new natural gas pricing bill (S. 3422) in an effort to break the House-Senate impasse on such legislation. The bill was approved in Committee by an 18-1 vote and has considerable bipartisan support (Senators Pearson, Stevenson, Hollings, Fannin, Brooks, and Stevens are among its sponsors).

MAJOR PROVISIONS OF THE BILL

In general, the bill is an improvement over current regulations, but is less acceptable than the Pearson-Bentsen bill (S. 2310) that passed the Senate last year and the Krueger bill that failed by 3 votes in the House in February. The major provisions of this new bill are:

- Establishes an initial base rate of \$1.60/mcf for all new onshore gas (compared to current FPC base rate of about \$0.52/mcf), which is adjusted quarterly to reflect inflation, and ends all regulation for new onshore gas after 7 years.
- Establishes an initial base rate for new offshore gas of \$1.35/mcf, adjusts this initial rate quarterly at the rate of inflation, and provides for a revision -- but not termination -- of offshore ceiling price regulation every 5 years.
- Leaves the intrastate gas market unregulated.
- Continues to regulate both onshore and offshore old gas.



- Contains several other provisions dealing with agricultural priorities, regulation of synthetic gas, conversion of natural gas boiler fuel use, and incremental pricing to boiler fuel users. The bill does not contain any of the short-term emergency measures to alleviate curtailments requested by the Administration or encompassed in S. 2310.

ANALYSIS OF THE BILL

As indicated in Table 1, the bill would result in significantly greater natural gas production in 1985 than would occur under current regulations, but less than with S. 2310 or the Krueger bill.

Table 1
Natural Gas Production Estimates

| <u>Bill</u> | <u>1985 Production (Tcf)</u> |
|---------------------|----------------------------------|
| Present Regulations | 17.9 |
| S. 2310 | 23.0 |
| Krueger | 22.3 |
| S. 3422 | 21.3 |

Most of the increased production would flow into the interstate market and could reduce significantly expected curtailments and shortages. However, although the gap between interstate and intrastate prices will be narrowed, some market distortions will remain. Our review of the other aspects of the bill shows a need for some technical amendments to make the bill more workable. However, with the exception of a possible desire for higher base prices onshore and offshore and assurance of eventual deregulation offshore, the bill is reasonably close to the Pearson-Bentsen bill you indicated you could accept a few months ago.

PROGNOSIS FOR THE BILL

It appears that the bill has broad support (including some conservatives), and is likely to pass the Senate with few changes. While it is also possible that the bill could pass the House in a similar form, liberal members of the House will try to lower the allowable price and extend regulations to the intrastate market, and it is likely that the bill will be changed.



OPTIONS

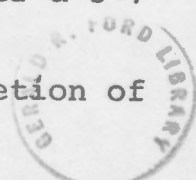
The bill is currently held together by a fragile coalition of liberals and a few conservatives, with support from both sides of the aisle. Major modifications to the bill are likely to break apart this coalition. It is also likely that if this bill is not enacted, there will be no natural gas legislation enacted by this Congress. Thus, the basic decision will be whether to accept this bill largely as is or to give up on this legislation. The major options are:

Option 1. Announce Administration support for the bill in substantially its current form.

- Pro:
- Would galvanize bipartisan support to assure Senate passage and enhance chances for success in the House.
 - Could be politically popular.
 - Would support a reasonably good bill that could alleviate future natural gas problems.
- Con:
- Early support may not be necessary to assure passage and could limit flexibility later.
 - Support at this time may be considered as a point of departure by the House from which to bargain.
 - Would represent a shift from support of Pearson-Bentsen.
 - Premature support could subject Administration to criticism by conservative members of Congress and the gas industry, which may ultimately accept bill, but only after all avenues are pursued.

Option 2. Defer public announcement of a position on the bill at this time, and work to amend the bill on the Senate floor or in the House. The following are possible amendments:

- ° Raise the initial price.
- ° Shorten the time frame for achieving onshore deregulation from 7 years to 3-5 years.
- ° Phase out regulations for offshore gas over a 5-7 year period.
- ° Other technical amendments, including deletion of troublesome boiler fuel restrictions.



- Pro: - By withholding announcement of support, maximum flexibility is preserved along with greater bargaining strength with the House.
- Allows possibility for making the bill more acceptable.
 - Preserves philosophical position with conservatives.
- Con: - Lack of support could jeopardize bill's chances in the House.
- Major modifications to the bill could break apart the coalition.

If Option 2 is chosen, the following strategy in the Senate may be desirable:

1. Indicate that the current bill is inadequate because onshore deregulation is too slow, deregulation of offshore gas is at best uncertain, and the ceiling prices are too low.
2. Seek amendments to S. 3422 to make it correspond to the Pearson-Bentsen bill (S. 2310).
3. If unsuccessful in amending the bill to correspond to S. 2310, seek amendments to improve the bill as indicated in Option 2 (while recognizing that amendments could destroy coalition of support).
4. If unsuccessful with these amendments, withhold support and seek better bill on the House side (although a better bill would be hard to achieve in the House).

Option 3. Announce opposition to the bill and intention to veto if passed in its present form.

- Pro: - Maintains stance on Pearson-Bentsen and strict conservative support.
- If a decision is ultimately made to veto the bill, an early indication may be helpful to sustain the veto.
- Con: - Puts President in a veto posture, since this bill is likely to pass, and could mean no natural gas bill this year if veto is sustained.

The bill and the options outlined above have been reviewed by your advisers. All agree that the bill has substantial merit if it is the best we can expect from the Congress this year. Several agencies (e.g., Interior, HUD and ERDA) agree with Option 1. Others (e.g., FEA and CEA) lean towards Option 2, but not at the expense of breaking apart the coalition of Senators supporting the bill.

Before making your decision on which course of action to adopt, we recommend:

- That you meet with Senators Pearson, Stevens, Fannin, Bellmon, Hansen, Bartlett, and Tower so that you may have the benefit of their views on how best to handle this legislation.
- That following this meeting you meet with your advisers to get their detailed positions.