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# NATURAL GAS FOR RESALE FOR INDUSTRIAL USE

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## HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

SECOND SESSION

ON

**H.R. 6949**

A BILL TO AMEND SECTION 4(e) OF THE NATURAL GAS ACT, TO AUTHORIZE A GAS DISTRIBUTING COMPANY TO COMPLAIN ABOUT A RATE SCHEDULE FILED BY A NATURAL GAS COMPANY AND TO GIVE THE FEDERAL POWER COMMISSION AUTHORITY TO SUSPEND CHANGES IN RATE SCHEDULES COVERING SALES FOR RESALE FOR INDUSTRIAL USE ONLY

**S. 1595**

AN ACT TO AMEND THE NATURAL GAS ACT TO GIVE THE FEDERAL POWER COMMISSION AUTHORITY TO SUSPEND CHANGES IN RATE SCHEDULES COVERING SALES FOR RESALE FOR INDUSTRIAL USE ONLY

FEBRUARY 14, 1962

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Committee on Interstate and Foreign Commerce



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# NATURAL GAS FOR RESALE FOR INDUSTRIAL USE

WEDNESDAY, FEBRUARY 14, 1962

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON COMMUNICATIONS AND POWER OF THE  
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 1334, New House Office Building, Hon. Morgan M. Moulder (chairman of the subcommittee) presiding.

The CHAIRMAN. The subcommittee will be in order.

The Subcommittee on Communications and Power is meeting this morning to conduct hearings on H.R. 6949 and the companion Senate bill, S. 1595 which has for its purposes the amendment of subsection (e) of section 4 of the Natural Gas Act relating to Commission jurisdiction over the rates for the sale of natural gas for resale for industrial use.

(The bills, H.R. 6949 and S. 1595, and the report from the Executive Office of the President are as follows:)

[H.R. 6949, 87th Cong., 1st sess.]

A BILL To amend section 4(e) of the Natural Gas Act, to authorize a gas distributing company to complain about a rate schedule filed by a natural gas company and to give the Federal Power Commission authority to suspend changes in rate schedules covering sales for resale for industrial use only

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of subsection (e) of section 4 of the Natural Gas Act, as amended (15 U.S.C. 717c(e)), is amended by changing the words "or State commission" to read "State commission, or gas distributing company".*

(b) Such subsection (e) is further amended by striking out "*Provided, That the Commission shall not have authority to suspend the rate, charge, classification, or service for the sale of natural gas for resale for industrial use only*".

[S. 1595, 87th Cong., 1st sess.]

AN ACT To amend the Natural Gas Act to give the Federal Power Commission authority to suspend changes in rate schedules covering sales for resale for industrial use only

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 4 of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by striking out: "*Provided, That the Commission shall not have authority to suspend the rate, charge, classification, or service for the sale of natural gas for resale for industrial use only*".*

Passed the Senate August 14, 1961.

Attest:

FELTON M. JOHNSTON,  
Secretary.

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D.C., February 15, 1962.

HON. OREN HARRIS,  
Chairman, Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget on H.R. 6949, a bill to amend section 4(e) of the Natural

Gas Act, to authorize a gas distributing company to complain about a rate schedule filed by a natural gas company and to give the Federal Power Commission authority to suspend changes in rate schedules covering sales for resale for industrial use only.

Section (a) of H.R. 6949 would authorize gas distributing companies to complain to the Federal Power Commission about any new schedule filed with the Commission in order that a hearing may be held concerning the lawfulness of the schedule. While the Bureau of the Budget would have no objection to enactment of this provision, it is our understanding that such enactment would not contribute materially to the effective functioning of the Commission.

Section (b) would delete the proviso from section 4(e) of the Natural Gas Act that prohibits the Commission from suspending changes in rates, charges, classifications, or service for the sale of natural gas for resale for industrial use. Enactment of this provision would enable the Commission to act more quickly and effectively in cases where sales for industrial use appear to be unreasonable, unduly preferential or discriminatory. For this reason the Bureau of the Budget would favor its enactment.

Sincerely yours,

PHILLIP S. HUGHES,

*Assistant Director for Legislative Reference.*

The CHAIRMAN. The legislation was introduced at the request of the Commission to carry out a recommendation for such legislation made in its 1960 annual report and repeated in its annual report for 1961.

The subject is not a new one but has heretofore been considered by this committee as section 103 of H.R. 8525, a bill making numerous amendments to the Natural Gas Act, which was reported by this committee in July 1957.

Subject to a single exception, the rates at which natural gas is sold by natural gas companies to distributing companies are subject to the suspension power of the Commission. The exception, contained in the proviso proposed to be repealed by this section of the bill, is where the gas is sold for resale for industrial use only.

In the case of those rates which are subject to the suspension power, the Commission may suspend the rates for no longer than 5 months beyond the time when they would otherwise go into effect. If the proceeding before the Commission on the matter has not been concluded, and an order made, at the expiration of the suspension period the new rates will go into effect. However, the Commission may require the natural gas company to furnish a bond to insure refund, with interest, of any portion of such increased rates subsequently found not to be justified.

Because of the proviso above quoted, rates for the sale of natural gas for resale for industrial use only go into effect at once, and remain in effect until final determination of their lawfulness. Proceedings on such matters are often prolonged, and during the pendency of such proceedings the rates filed must be paid by the industrial users. The protections afforded by the suspension and bonding provisions referred to are denied to industrial consumers by the proviso referred to.

The effect of repealing the proviso will be to place residential, commercial, and industrial users in the same position with respect to protesting price increases in the case of gas purchased through an intermediate distributing company or municipality. This amendment does not affect direct sales by natural gas companies to industrial consumers.

Before hearing the witness appearing today, the Chair recognizes Congressman Ellsworth of Kansas who wishes to make an introduction.

**STATEMENT OF HON. ROBERT F. ELLSWORTH, A REPRESENTATIVE  
IN CONGRESS FROM THE SECOND CONGRESSIONAL DISTRICT  
OF KANSAS**

Mr. ELLSWORTH. Thank you, Mr. Chairman. I appreciate this opportunity to introduce two of the witnesses from my State of Kansas.

I also want to express my appreciation to Chairman Swidler of the Power Commission for letting me make this introduction prior to his testimony.

I would like to introduce at this time to you, Mr. Chairman, and the members of the committee, Mr. Stan Whiteaker, of Kansas City, who is here, and who wants to testify this morning. He is a constituent of mine.

And Mr. Eldon Sloan, of Topeka, Kans., who isn't a constituent of mine but who is from my State and who wishes to testify.

I want to say also that thousands of men and women in our Kansas City area, which is highly industrialized, are interested in this bill and support its purpose, because it is very important to them from the standpoint of job opportunity and security.

Thank you very much.

The CHAIRMAN. The first witness will be Hon. Joseph C. Swidler, Chairman of the Federal Power Commission of Washington.

**STATEMENT OF HON. JOSEPH C. SWIDLER, CHAIRMAN OF THE  
FEDERAL POWER COMMISSION; ACCOMPANIED BY COMMISSIONERS  
LAWRENCE O'CONNOR AND CHARLES ROSS; AND  
ROBERT RUSSELL AND FREDERICK PEARSE, COUNSEL**

Mr. SWIDLER. For the record, Mr. Younger, Mr. Moss, Mr. Korneygay, my name is Joseph C. Swidler, and I am Chairman of the Federal Power Commission.

We have with us today Commissioners Lawrence J. O'Connor, Jr., and Charles Ross, who are seated behind me, and two members of the Federal Power Commission staff, Mr. Robert Russell and Mr. Frederick Pearse.

I have a prepared statement which I will turn over to the reporter. But I presume that you do not wish me to read it into the record, and unless you prefer that I do, I shall simply make some informal remarks and hand a copy of my statement to the reporter for inclusion in the record.

The CHAIRMAN. Whatever you desire to do.

The statement will be made a part of the record at this point. (The statement referred to is as follows:)

**STATEMENT OF JOSEPH C. SWIDLER, CHAIRMAN OF THE FEDERAL POWER  
COMMISSION**

Mr. Chairman and members of the committee, my name is Joseph C. Swidler, and I am Chairman of the Federal Power Commission.

As indicated in the Commission's report sent to the committee on August 31, 1961, we recommend that the bill be enacted.

The purpose of the bill is to eliminate a loophole in the Natural Gas Act which now bars the Commission from suspending proposed rate changes with respect to sales of natural gas destined ultimately for industrial use only. The rates to which I refer are for sales, which are subject to our jurisdiction, by a pipeline to a

distributing company for resale to an industrial consumer. This bill does not concern the rates for direct sales from the pipeline to the industrial consumer, over which we presently have no control. I might add, however, that legislation giving us authority to regulate such direct industrial sales is now pending before Congress and has our full support.

Under existing law we have the power to suspend for a maximum of 5 months proposed rate increases on all sales from a pipeline to a distributor except for sales destined for industrial use. With this one exception, we are authorized to postpone the effective date of increases while the Commission holds hearings to determine their lawfulness. If at the end of the suspension period the proceeding has not been concluded, the proposed increase may go into effect, subject to refund. When the Commission makes its final decision it may order the company to refund, with interest, that part of the increased rates which has been found not to be justified. However, under existing law rate increases for sales destined for industrial use go into effect before the Commission has an opportunity to investigate them and the Commission has no power to order refunds if we later conclude the rates are unlawful. The effect of the bill would be to make this suspension and refund procedure applicable to all sales for resale subject to our jurisdiction, including sales for industrial use only.

We favor the bill for several reasons:

It will enable the Commission to postpone rate increases for resale to industries so that it will have an opportunity to determine whether the rate increases are justified before allowing the rates to go into effect.

It will also enable the Commission to order refunds of unjustified amounts collected during the period between the effective date of the increased rates and the date of the final decision. Under existing law, the Commission can deal with rates for resale for industrial use only prospectively. It can do nothing about the period preceding its decision even if it concludes that the rates or charges were unreasonably high or otherwise unlawful. The result is a windfall for the pipeline company in the form of revenues exceeding a fair return on its investment, and a situation in which the industrial consumer is at the mercy of the pipeline until the Commission can conclude its investigation.

The burden of these excessive rates falls not only upon the industrial consumers, but also upon the distributors and their domestic customers. So long as the Commission has no power to postpone the effectiveness of a windfall rate, industrial users may turn to competing fuels and be permanently lost to the distributor even though the Commission later reduces the rate to a reasonable and competitive level. If that happens, the distributor will have to recoup its lost revenues by raising its rates to domestic consumers. If the distributor decides to absorb the increase to his industrial customer, rather than lose him, it will have to make up the difference in higher domestic rates. In either case, the windfall which this bill is designed to prevent would be realized at the expense of the domestic consumer, whose protection is one of the chief objects of the Natural Gas Act.

I want to emphasize that this bill would give us the power to suspend only rates which are already subject to our jurisdiction. The bill would enable us to exercise that jurisdiction effectively by eliminating the interval during which a pipeline may charge whatever rates it wishes with the right to keep the entire amount even if later found to be unreasonably high or discriminatory.

I do not want to overstate this problem. Most pipelines sell gas to their distributors without separately classifying the gas which is destined for industrial use and all of their rates for resale are therefore subject to suspension and refund. Only 10 of the approximately 100 pipeline companies subject to our jurisdiction have separate resale rates for industrial use and these rates represent only a small percentage of their revenues. However, the problem is a very real one to the industrial consumer who is over a barrel and must pay excessive rates during the decisional period without hope of refund. It is also a very real problem to the distributor who may lose his industrial customer if he does not absorb part or all of the rate increase and saddle it on his domestic consumers. This bill will eliminate such inequities, and place resale rates for gas to industry under the same provisions of the act as are the resale rates for all other consumers. The Federal Power Commission, as previously constituted has consistently favored this measure, and it is strongly endorsed by the Commission as now constituted.

Mr. SWIDLER. Before making my remarks I should like to note for the record that the Bureau of the Budget has informed the Commission that the measure now before you has the approval of the Bureau of the Budget.

This is my first appearance before this committee, and I want to express my pleasure at being here and hope that I won't wear out your patience. It has been a pleasure to meet you gentlemen, and I know a pleasure that is shared by Mr. O'Connor and Mr. Ross.

The purpose of the bill was well stated in the chairman's introductory remarks. It is a simple bill, and its effect would be to strike from section 4(e) of the Natural Gas Act a proviso in the middle of that paragraph which reads as follows: "Provided, That the Commission shall not have authority to suspend the rate, charge, classification, or service for the sale of natural gas for resale for industrial use only."

Now, as the chairman's introductory remarks made clear, this proviso has two effects. In the first place, it precludes the Commission from suspending rates that are filed by a pipeline company for resale to a distributing company for industrial use only, as the Commission is empowered to do in the case of all other pipeline rates. And, in the second place, to the extent that the rates may be found later to be unlawfully high, it prevents ordering refunds to the industries which have paid the unlawfully high charges.

This item is included as one of the items in the comprehensive bill to amend the Federal Power Act which Senator Magnuson has introduced as S. 2744, but it is a very desirable piece of legislation which has been separately passed by the Senate, and the Federal Power Commission would be most appreciative of its passage in its present form as a part of the comprehensive bill.

So far as I know, there is no substantial opposition to this bill.

At the time that the Natural Gas Act was passed, apparently it was contemplated that most service to industries would be under special contract arrangements. It was conceived that the power to suspend might affect the negotiation of such special contracts and, therefore, this exception was made.

However, most of these sales are now on general tariffs, and I know of no reason why there should be this single exception from the Commission's suspension authority and from its power to order refunds when the rates are later found to be unlawful and excessive.

The bill addresses itself to a relatively small problem, because most pipeline companies do not file special tariffs for sale to distributing companies for industrial purposes only; they file general contracts which cover industrial sales together with all other sales. And when the industrial sales of distributors are lumped in with all other sales of distributors, the Commission orders refunds for all of the customers. There are only 10 pipeline companies which file separate tariffs for sale to distributing companies for resale for industrial purposes only.

Of the amounts involved, more than one-half is accounted for by the sales of a single pipeline company, more than a quarter is accounted for by the sales of a second pipeline company, and eight other pipeline companies account for the balance of less than a quarter of the total.

As Mr. Ellsworth mentioned, this bill has the support, among others, of the Midwest Industrial & Commercial Gas Users Association, which is comprised of industries who receive their gas supply through the Cities Service Gas Co. system. For them this is a serious problem, and the fact that most industries are not confronted with it, because the pipeline companies which account for the supplies do not file separate tariffs for industrial resale only, does not help them when they find themselves paying excessive amounts without right of refund. To some extent the pipeline companies have made partial refunds voluntarily. But this is not a matter in which they should have to rely upon the good graces of the pipeline companies. It seems to the Commission that they are entitled to the same protection as all other gas users from interstate pipeline systems.

This measure was included in the Harris bill, H.R. 6645, which passed the House in 1956. The Harris bill, as the committee will recall, was vetoed for reasons having nothing to do with this particular item. It was also included in another bill which was reported out by this committee but never reached the House floor. So that it has already twice received the approval of this committee. And I hope it will again receive this committee's approval.

This concludes my informal remarks supplementing the prepared statement. I should be glad, if there is anything I have not covered, to attempt to answer any questions you may have and if I can't answer them, perhaps one of the other Commissioners, or Mr. Russell or Mr. Pearse, can lend a hand.

The CHAIRMAN. Thank you very much.

At this time the Chair recognizes our chairman of the Interstate and Foreign Commerce Committee, Mr. Harris.

Mr. HARRIS. Thank you, Mr. Chairman.

Mr. Swidler, may I join the chairman and other members of the committee in extending to you a cordial welcome on your first visit to this committee since assuming new duties and responsibilities as Chairman of the Federal Power Commission.

Mr. SWIDLER. Thank you very much, Mr. Harris.

Mr. HARRIS. I also would like to take this occasion to compliment you, as the Chairman of the Commission, and the other members of the Commission for the steps that you have undertaken to improve procedures and expedite the work of the Commission. I, for one, am quite pleased to see the improvement in the various major regulatory agencies of the Government as a result of the work of this committee and the recommendations that we have made, together with the improved procedures that you and others as members of the Commission have seen that you could bring about since you have been with the Commission. We will look forward to your appearance before this committee on other occasions. Some of them, in my judgment, will not be as genial and, apparently, as universally approved as this bill appears to be at this time.

The chairman of the committee recognizes that the Commission has a number of recommendations. I received your letter with reference to a comprehensive package bill, including all of the recommendations. However, I did feel it advisable to take these bills that we can apparently obtain approval for without too much delay. As

far as the other recommendations, I am giving consideration to them, and those that we feel we would be able to do something with, I would try to schedule them as soon as the committee's schedule will permit.

Now, I will very likely be talking to you about some of them after consultation with the staff and other members of the committee and arranging our schedule. I see no particular need, Mr. Chairman, for taking any time of the committee with reference to this bill. It has been said that it has been considered by the committee on other occasions in the past, and it has been approved by the committee. As a lawyer, I would think that those interested in it would recognize the fact that if we have got a case the advisable thing to do is get the record made and let's go on about the business of the committee.

Mr. SWIDLER. May I express my appreciation for those very cordial remarks. And let me assure you, Mr. Chairman, as well as Chairman Harris, that the members of the commission will work with you in any way that you want us to.

The CHAIRMAN. Thank you.

Mr. ROGERS?

Mr. ROGERS of Texas. Mr. Swidler, do you have any information as to the number of times that the industrial distributors have raised these prices and that subsequently they were disallowed?

Mr. SWIDLER. You are talking about these 10 pipeline companies in particular?

Mr. ROGERS of Texas. Yes, the ones that this bill is intended to affect.

Mr. SWIDLER. May I refer that to Mr. Robert Russell, Assistant General Counsel of the Commission.

Mr. RUSSELL. Congressman Rogers, I can't give you a specific answer to that question, but I think that the figures which have been submitted by the group of industrial consumers pretty well outlines the number of rate increases which have been made applicable to sales, and the resulting increase to them for which they have not been able to receive refunds except at the bounty of the pipeline companies.

Mr. ROGERS of Texas. What I was getting at, doesn't the Federal Power Commission have the information simply as a matter of arithmetic where a pipeline company raised the price and the Commission subsequently disallowed it? Don't you have any information as to the amount of money involved that went through the pipeline company that wouldn't have gone had a bill like this been in effect at that time?

Mr. RUSSELL. Yes, we would have that information, but unfortunately we do not have it here. I could say, roughly, of the amount of the increase, approximately 50 percent has been disallowed. What the total dollar figure would be I do not have at the present time. But we could supply that information if you desire it.

Mr. ROGERS of Texas. I think it would be very important for the record, Mr. Chairman, to have it supplied.

(The information referred to is as follows:)

Amounts not subject to suspension and refund in recent pipeline rate increase applications<sup>1</sup>

	Docket No.	Subject to refund		Not subject to refund		Unrefundable amount collected
		Annual amount	Effective date	Annual amount	Effective date	
Alabama-Tennessee Natural Gas Co.	G-17218...	\$127,700	May 15, 1959	\$7,000	May 15, 1959	\$19,250
Cities Service Gas Co.	RP62-1...	6,566,900	-----	2,118,000	July 23, 1961	<sup>2</sup> 948,400
Colorado Interstate Gas Co.	G-13541...	2,540,400	Feb. 5, 1958	12,900	Oct. 21, 1957	15,416
Colorado Wyoming Gas Co.	G-13577...	336,400	Feb. 5, 1958	3,600	Feb. 5, 1958	3,197
El Paso Natural Gas Co.	RP60-3...	20,728,000	Aug. 25, 1960	488,100	Aug. 25, 1960	718,483
Houston Texas Gas and Oil Corp.	RP61-3...	1,340,900	Dec. 1, 1960	-----	-----	-----
Texas Gas Transmission Corp.	RP61-15...	4,738,600	May 6, 1961	3,600	May 6, 1961	2,801
United Gas Pipe Line Co.	RP61-18...	4,618,900	June 15, 1961	20,900	Feb. 18, 1961	20,900

<sup>1</sup> Atlantic Seaboard Corp. and Orange and Rockland Utilities, Inc., are excluded from the tabulation since no industrial sales are made under their FPC tariffs.

<sup>2</sup> Of this amount \$556,000 was ultimately found justified; \$196,200, which is one-half of the \$392,400 collected in excess of the amount found justified, was refunded pursuant to a settlement agreement.

Mr. SWIDLER. Mr. Rogers, I can give you some figures that don't go directly to your question, but may nevertheless be close enough to be of interest.

I have here a list of the 10 pipeline companies. They are the Alabama-Tennessee; Atlantic Seaboard; Cities Service; Colorado Interstate; Colorado-Wyoming; El Paso; Houston Texas; Orange & Rockland; Texas Gas Transmission; and United Gas.

On the average their industrial sales under these schedules—sales to distributor companies for resale to industries—accounted for 145 million Mcf in 1960—these are all 1960 figures—and about \$38½ million, which were 5.15 percent of total volume of sales, and 4.68 percent of dollars received in those sales.

This will give you some idea of the overall dimensions of the problem. Of these totals, Cities Service accounted for almost \$13 million of the \$38½ million in sales, and El Paso accounted for about \$21,400,000 of the \$38.5 million.

I would be glad to offer the whole table for the record—it is in pencil form—if it will be of any interest to the committee.

The CHAIRMAN. It will be placed in the record at this point.

(The table referred to is as follows:)

*Sales to distributor companies for resale to industries*

	Including sales to other utilities		Total sales to other gas utilities	
	M c.f.	Amount	M c.f.	Amount
Alabama-Tennessee.....	42,230	\$11,951	7,112,519	\$4,241,189
Atlantic Seaboard.....	-----	-----	165,181,152	84,820,186
Cities Service.....	67,912,234	12,932,379	238,377,595	63,063,863
Colorado Interstate.....	3,361,237	715,133	248,832,762	51,501,378
Colorado-Wyoming.....	1,138,047	256,061	22,665,252	7,389,736
El Paso.....	62,831,119	21,410,036	1,097,290,843	346,045,674
Houston, Tex.....	2,765,442	977,944	10,674,896	5,756,418
Orange and Rockland.....	-----	-----	533,583	406,024
Texas gas transmission.....	206,616	64,626	374,962,502	114,943,318
U.G.P.L.....	7,596,881	2,123,622	663,933,981	144,710,642
Total.....	145,853,806	38,491,752	2,850,425,085	822,878,428
Percent.....	5.15	4.68	-----	-----

Source: Annual reports, 1960.

Mr. ROGERS of Texas. Would you say as a general statement that it has been customary for these companies to raise these prices at every opportunity, or have they been pretty reasonable about it?

Mr. SWIDLER. I would have to answer in more general terms than that. I can't answer specifically about these companies.

But, in general, the amounts of increases which have been disallowed and later refunded runs in the order of 40 percent of the suspended increases.

Mr. ROGERS of Texas. It was my understanding that counsel said they disallowed around 50 percent.

Mr. SWIDLER. Say 40 to 50 percent.

Mr. ROGERS of Texas. If you are talking in percentages, that is fine. The only thing I am thinking about in this: Does that indicate a large number of increases? In other words, 50 percent of 2 would only be 1, 50 percent of 20 would be 10. I am wondering if there were a large number of increases.

Mr. SWIDLER. The presentation of the Midwest Industrial & Commercial Gas Users Association, Inc., in a letter addressed to this committee on January 11, 1962, lists several increases applied by by Cities Service. And that is the most definite information that I have. As I mentioned, Cities Service is one of the two large factors in this problem.

Mr. ROGERS of Texas. Thank you.

Mr. HARRIS. Would the gentleman yield?

Mr. ROGERS of Texas. I would be happy to.

Mr. HARRIS. Chairman Swidler, is it not a fact that the companies have been reasonable about it in that a great number, if not most of these, have been resolved on a compromise agreement between the users and the companies themselves?

Mr. SWIDLER. The companies have gone beyond their legal obligation in attempting to temper the effects of this amendment as applied to the industrial gas users. But it has been uneven, some companies have done more than others, and usually the amount of refunds is based on compromises, because the industrial user has no vested right to a refund of excessive charges as do other consumers.

Mr. HARRIS. But the fact remains that the companies, or at least many of the companies, recognize this situation themselves and have been willing to try to work out some satisfactory arrangement with you?

Mr. SWIDLER. Yes, sir. This is not an evil of the companies, it is simply a loophole in the statute.

Mr. ROGERS of Texas. Yes. What I was after, really, was simply to get some facts so that the record would reflect these facts, because certain questions would be asked about it.

The CHAIRMAN. We thank you.

Mr. Stanley C. Whiteaker, utility consultant, Kansas City, Kans.

**STATEMENT OF STANLEY C. WHITEAKER, UTILITY CONSULTANT,  
TROUPE, KEHOE, WHITEAKER & KENT, KANSAS CITY, KANS.**

Mr. WHITEAKER. Chairman Moulder, Chairman Harris, Congressman Rogers, Congressman Moss, Congressman Kornegay, and Congressman Younger, it is a pleasure for me to appear before this committee.

My name is Stanley C. Whiteaker. I am a certified public accountant and utility consultant, and a partner in the firm of Troupe, Kehoe, Whiteaker & Kent, with offices in Tucson, Phoenix, and Kansas City. I am the utility consultant for the Midwest Industrial & Commercial Gas Users Association, which is an association comprised of major industries in eastern Kansas, western Missouri, and northeastern Oklahoma. These industries buy gas for their use from distributing companies served by the Cities Service Gas Co., a natural gas transmission company serving the areas of eastern Kansas, western Missouri, northeastern Oklahoma, and some locations in southern Nebraska.

Our association has recently participated in the third Cities Service Gas Co. rate case that has been settled since April 23, 1956. A portion of section 4(e) of the Natural Gas Act provides that "the Federal Power Commission shall not have authority to suspend the rate, charge, or classification of service for the sale of natural gas for resale for industrial use only." Due to the fact that this provision is contained in the Natural Gas Act, when a pipeline company having an end-use type rate files a rate increase, the distributing company purchasing industrial gas pays the increase within 30 days, and, in almost all instances, immediately passes this increase along to the ultimate consumer. The Federal Power Commission has considered that due to the lack of suspension, they are not in a position to require bonding and refund of any excessive charges—all of which results in industrial users paying the increased cost 5 months prior to the other users on the gas company's system and having no right for refund.

I previously stated that our association had participated in three Cities Service Gas Co. rate cases, all of which were settled, the most recent being settled in a period of 6 months. We feel that we were fortunate in this respect, in that we didn't have to pay the increase for a prolonged period of time. We further feel that we are most fortunate under the circumstances in that we were able to recover approximately one-half of the excessive charges. This was done by negotiation at settlement time.

I have prepared an exhibit entitled "Results of Settlements on Industrial Rates and Computation of Interest Losses" that have been sustained by industries served by the Cities Service Gas Co. system in the three recent cases that I have previously referred to. On this exhibit I show the FPC docket number, effective date of increase, date of settlement, the payments made in excess of the finally scheduled rates, the industrial refund that we were able to secure as a result of negotiations as part of the settlement, the excessive charges recovered, the interest loss on the unrecovered funds, and the total loss to industrial users served by the Cities Service Gas Co. system.

The CHAIRMAN. Is this exhibit part of your statement?

Mr. WHITEAKER. Yes, it is.

The CHAIRMAN. It will go in the record as part of your statement. (The exhibit referred to is as follows:)

CITIES SERVICE GAS CO.

Results of settlements on industrial rates and computation of interest losses

FPC docket No.	Effective date of increase	Date of settlement	Payment in excess of scheduled rates	Industrial refund as result of settlement	Excessive gas charges unrecovered	Interest loss	Total industrial loss
G-2410.....	Apr. 23, 1954	Apr. 23, 1956	} \$1,332,288.94	† \$660,000.00	† \$672,288.94	\$79,936.00	\$752,204.94
G-4908.....	Oct. 23, 1955	do.....					
G-18,799.....	June 23, 1959	Feb. 23, 1961	† 973,431.16	† 986,715.58	† 986,715.58	88,804.00	1,075,519.58
RP-62-1.....	July 23, 1961	Dec. 22, 1961	‡ 450,000.00	† 225,000.00	† 225,000.00	3,375.00	228,375.00
Total.....			3,755,700.10	† 1,871,715.58	† 1,883,984.52	172,115.00	2,056,099.52

† Exclusive of interest.

‡ Estimated.

Mr. WHITEAKER. This exhibit shows that industrial users have sustained a loss of \$2,056,099.52 due to lack of refund. This is in addition to the charges that they have paid 5 months prior to the time that the other gas users' rate increase became effective.

The enactment of Senate bill 1595 and House bill 6949 will strike from the act the proviso and will enable the industrial users to receive treatment similar to that of all other gas users on the system. Not all of the natural gas companies in the United States are affected as our area is affected, due to the fact that the majority of the major pipeline companies have rates designed as a "rolled-in" type rate. This means that they sell gas to the distributing companies at one price and the distributing companies can design rates for the various types of usage. On this type of "rolled-in" rate, it is impossible to distinguish the industrial gas from the firm gas; therefore, the industrial rates are suspended where rolled-in-type rates are charged by the pipeline companies. There are six pipeline companies that have end-use-type rates that are affected by this proviso.

There are 6 pipeline companies that I have reference to, Chairman Swidler of the Federal Power Commission referred to 10, and I would defer to his knowledge of that because he has access to the tariffs and I do not.

The six pipeline companies that I referred to were United Gas Pipeline Co., El Paso Natural Gas Co., Pacific Northwest Pipeline Co., Colorado-Wyoming Gas Co., Alabama-Tennessee Natural Gas Co., and Cities Service Gas Co., which serves our area.

I have prepared a schedule setting out the pipeline rate cases that are presently under consideration by the Federal Power Commission. You will note that the United Gas Pipeline Co. has seven cases that are presently under consideration and the nonsuspendible industrial increases not subject to refund have an annual effect of \$2,085,854. The cumulative effect of such increases up to December 31, 1961, amounts to \$11,720,600, none of which is subject to refund. From past experience of settlement of pipeline company cases, this would indicate that there would be some reduction in the industrial rates as well as the other rates affected. Therefore, there would be a substantial amount that would not be refunded to the ultimate user who has paid the increase, all of which has resulted in a windfall to the pipeline company.

I also show the three cases that are presently under consideration by the Federal Power Commission on the El Paso Natural Gas Co., having an annual effect of \$1,962,065 and a cumulative effect of \$4,692,395, up to December 31, 1961. This exhibit shows that at the present time there has been collected an estimated \$16,412,995 of industrial rates that are not subject to any refund. The amount of excessive charges, of course, cannot be determined until such time as the case is concluded.

I have footnoted on the bottom of this exhibit the areas served by all of the pipeline companies having end-use-type rates. This shows that all or a portion of 18 States are affected.

Now, the other four pipeline companies that Chairman Swidler referred to would affect, of course, a broader area.

It is my opinion and the opinion of our association members that the enactment of Senate bill 1595 and/or House bill 6949 is in the public interest and we urge this committee to take favorable action in reporting it favorably to the floor of the House for consideration.

Thank you.

The CHAIRMAN. Thank you, Mr. Whiteaker.

The chart you referred to will be made a part of the record.  
(The chart referred to is as follows:)

MIDWEST INDUSTRIAL & COMMERCIAL GAS USERS ASSOCIATION

Rate filings of regulated natural gas companies having end-type industrial rates

FPC docket No.	Date of filing	Name of company	Annual amount nonsuspended industrial increase	Cumulative industrial increases to Dec. 31, 1961
G-9,457	Sept. 30, 1955	United Gas Pipeline Co.	\$1,140,690	\$7,036,917
G-10,592	May 15, 1956		249,466	2,631,118
G-12,801	May 29, 1957		247,480	1,113,660
G-15,360	May 29, 1958		94,431	330,508
G-18,406	Mar. 30, 1959		108,851	290,958
RP-60-2	Aug. 11, 1960		224,050	299,331
RP-61-18	Jan. 18, 1961		20,886	18,108
		Total, United Gas Pipeline Co. <sup>1</sup>	2,085,854	11,720,600
G-12,948	June 28, 1957	El Paso Natural Gas Co.	0	0
G-17,029	Jan. 12, 1959		1,095,518	3,159,474
RP-60-3	Feb. 23, 1960		866,547	1,532,921
		Total, El Paso Natural Gas Co. <sup>2</sup>	1,962,065	4,692,395
G-13,202	Aug. 6, 1957	Pacific Northwest Pipeline Co.	0	0
		Total <sup>3</sup>	4,047,919	16,412,995

<sup>1</sup> Serves southeast and east Texas, Louisiana, Mississippi, southern Alabama, and northwest Florida.

<sup>2</sup> Serves southwest Texas, New Mexico, Arizona, southern California, Washington, and small portions of Colorado, Utah, Wyoming, and Idaho.

<sup>3</sup> Other pipeline companies having end-use rate schedules are Colorado-Wyoming Gas Co., serving central Colorado and southern Wyoming; Cities Service Gas Co., serving northeastern Oklahoma, Kansas, western Missouri, and southern Nebraska, and Alabama Tennessee Natural Gas Co. serving portions of Tennessee and Alabama.

A portion or all of 18 States are affected.

The CHAIRMAN. Thank you, Mr. Whiteaker.

Mr. Swidler, would you resume the witness chair?

STATEMENT OF HON. JOSEPH C. SWIDLER, CHAIRMAN OF THE  
FEDERAL POWER COMMISSION—Resumed

Mr. HARRIS. In the Senate bill the language is different from the House bill which I introduced at the request of the Commission. In the House bill, H.R. 6949, it provides that (a) the first sentence in subsection (e) of the Natural Gas Act is amended by changing the words "or State Commission" to read "State commission, or gas distributing company".

And in the Senate bill it merely provides the striking out of certain language. I assume both bills reach the same objective.

Do you have any preference?

Mr. SWIDLER. Chairman Harris, the House bill addresses itself not only to the major problem on which I testified but also to a technical omission in the statute which prevents gas distributing companies from filing complaints with respect to rate schedules.

4(e) now provides that whenever such new schedule is filed, "the Commission shall have authority either upon complaint of any State, municipality, or State commission, or upon its own initiative without complaint"—and the statute goes on to give the authority to suspend and hear the case, and so forth.

Now, this is a technical omission which is not a practical problem, because if a gas distributing company does object to a rate schedule, the Commission can and does put the question in issue on its own initiative.

Therefore, we don't rate this as a problem which should weigh heavily in the consideration of the committee as to which bill to vote out. And if it would be simpler from a parliamentary point of view for the Commission to adopt the Senate bill and thus avoid a conference, this would also be the Commission's preference. So that I think we would yield to you on this. If it were equally simple to put through either bill, I think we would rather have the House bill, but if it is a problem of avoiding a conference, we would prefer that the committee report out the Senate bill and avoid a conference.

Mr. HARRIS. I don't think there would be any problem there. Our legislative counsel did take your recommendation and revised it slightly, I believe, in order to make it what he thought would be the better language under the circumstances, and I think as a practical matter if you would prefer to have this language without the technical difficulties, I think it could be provided.

Mr. SWIDLER. If the committee thinks it would create no substantial problems in putting through the really substantial change with which we are interested.

Mr. HARRIS. You would prefer to have the House bill, then?

Mr. SWIDLER. Other things being equal.

The CHAIRMAN. Mr. Eldon Sloan, Secretary of the Midwest Industrial & Commercial Gas Users Association, Topeka, Kans.

#### STATEMENT OF ELDON SLOAN, TOPEKA, KANS.

Mr. SLOAN. Mr. Chairman and members of the committee, I, too, am a lawyer, and I am going to follow the advice of the chairman and submit my testimony in writing.

I, also, have a list which I would like to submit for the record.

The CHAIRMAN. Yes; that may be done.

Mr. SLOAN. This is of all of the members of our association, in order that the committee may see that we represent some small laundry concerns, some large steel fabricating plants, some large food processing companies, and some small food processing companies and a few hospitals, and municipal powerplants. We have a very varied membership.

I should, also, like to make one comment about the industrial user of gas that, I believe, is not in the record at this point, and, that is, that we are not demand customers. We use only the excess gas that is available in the pipeline.

During the winter weather, with the demand of the householder for space heater gas, if there is not available gas for industrial use we are cut off the line. We use substantial amounts of gas in the offpeak season, in the summertime, which tends to reduce the cost of gas to the space heater user. But what we are seeking here for the industrial user is not any special privilege of any kind whatsoever, but simply equal treatment with other consumers.

Thank you very much.

(The prepared statement of Eldon Sloan, together with the list of members follows:)

## STATEMENT OF ELDON SLOAN, TOPEKA, KANS.

My name is Eldon Sloan. I reside at Topeka, Kans., and am a practicing attorney and a member of the firm of Sloan, Hamilton & Sloan, with offices in suite 1214, First National Bank Building, Topeka, Kans. I am general counsel of Seymour Foods, Inc., of Topeka, Kans., a large processor of eggs, egg products, and poultry. This company is a member of the Midwest Industrial & Commercial Gas Users Association and I am appearing on behalf of that association. I am a member of the Board of Directors of the Midwest Industrial & Commercial Gas Users Association, and I am secretary of the association.

I am appearing in support of S. 1595 and H.R. 6949. Another witness for our association will be Mr. Stanley C. Whiteaker, utility consultant, who will explain the regulatory need for this legislation and the financial results upon members of our association from recent rate cases affecting our membership.

A brief word about the association which I represent here today. This group has a current membership of some 102 companies, ranging from hospitals, smaller businesses and laundries and dry cleaners, to larger concerns, such as Colgate-Palmolive Co., Corn Products Co., and U.S. Gypsum Co., to city powerplants and large steel processors. I should mention that one of our members, the Associated Laundry Owners of Greater Kansas City, has a membership of some 200 small businesses. These concerns are located in the geographical territory served by Cities Service Gas Co., a regulated pipeline company. The one common attribute of our membership is that in each of the business operations there is substantial consumption of natural gas and its price has a material bearing upon the operating cost of the business. Another concern which has worked closely with our association is the Kansas City Power & Light Co., a large electrical generating and distributing company. Including Kansas City Power & Light Co., the membership of this association purchases approximately 70 percent of the jurisdictional industrial gas sold by Cities Service Gas Co.

The association was organized to intervene and represent its membership in rate cases filed by Cities Service Gas Co. before the Federal Power Commission. The association has been active and represented its membership since about 1955 and during that time has participated in the following rate cases, all involving Cities Service Gas Co.:

FPC docket No.	Effective date of increase	Date of settlement
G-2410 and G-9468.....	Apr. 23, 1954	Apr. 23, 1956
G-18, 799.....	Oct. 23, 1955	
RP 62-1.....	June 23, 1959	Feb. 23, 1961
	July 23, 1961	Dec. 23, 1961

The association represents a broad segment of the business and industries in this area. Its broad membership is illustrated by the other directors of the association who are:

James Flynn, Sheffield Division, Armco Steel Corp.  
 Robert Peters, Pure Carbonic Co.  
 John E. Lyons, Owens-Corning Fiberglas Co.  
 John B. Spence, Faultless Laundry Co.  
 John F. Thrice, Missouri Portland Cement Co.  
 W. R. Miller, Armour & Co.  
 L. O. Griffith, Jr., Pittsburg-Corning Co.  
 Don C. Riley, Union Wire Rope Corp.  
 J. Neal Sawyer, Gustin-Bacon Manufacturing Co.  
 M. R. Hardin, W. S. Dickey Clay Manufacturing Co.  
 R. J. Duvall, Board of Public Utilities, Kansas City, Kans.  
 Henry B. Franey, Corn Products Co.  
 L. W. Parrish, U.S. Gypsum Co.

As major users of natural gas in "off peak" periods, the concerns represented by this association have a direct and substantial interest in natural gas legislation, and are particularly affected by the proviso of section 4(e) of the Natural Gas Act. In large part through the efforts of this association, the rate cases mentioned above were settled by agreement of the parties—the lengthy negotiations actively participated in by the association resulting in reduction of the rate filings by about 50 percent and substantial reduction in filed industrial resale rates.

We strenuously support the legislation contained in S. 1595 and H.R. 6949, which are identical. S. 1595 was introduced in the Senate by Mr. Magnuson on April 13, 1961, and passed the Senate unanimously on August 14, 1961, and is now pending before the House. H.R. 6949 was introduced by Mr. Harris on May 10, 1961.

The effect of S. 1595 and H.R. 6949 is to delete from the Natural Gas Act the so-called industrial proviso to section 4(e) of the act, 15 U.S.C. section 717c(e), which now reads: "Provided, That the Commission shall not have authority to suspend the rate, charge, classification, or service for the sale of natural gas [for resale for industrial use only;]"

From this language, the FPC has concluded it was not only without authority to suspend industrial rates, but from the placement of the proviso in the section, that it also lacked authority to condition nonsuspendible industrial rate increases upon bond insuring refunds, or to provide for refunds of excessive charges at the conclusion of a rate case. This interpretation of the statutory language was affirmed (by a two to one decision) in the case of *Gas Service Co. et al. v. FPC*, (282 F 2d 496 (CA, D. of C., 1960)), which was brought by this association.

As section 4(e) of the Natural Gas Act now reads, industrial rates are not subject to suspension by the Commission; in this way they are treated differently and discriminatorily from any other rates regulated by the Federal Power Commission. The result is, as our members experienced in the Cities Service Gas Co. rate cases referred to above, that higher rates became payable by industrial consumers of natural gas 5 months prior to the effective date of other rate increases. The amendment of section 4(e) of the act as proposed by these bills would correct this inequity and permit the Federal Power Commission to suspend industrial rates to the same extent it may other filed rates.

The discrimination does not stop there. When it exercises suspension authority, the Federal Power Commission normally permits increased rates to go into effect only under bond providing for refunds of charges in excess of rates eventually found to be reasonable. The Commission has deemed its bonding and refunding authority to rest upon its power to suspend rates and permit them to go into effect conditionally and concluded it had no authority to require refunds upon industrial rates even though those rates were ultimately found excessive and reduced. This has the result of leaving excess charges in the gas companies' pocket, induces such companies to file high industrial rates, and discriminates against industrial gas consumers.

The FPC, however, has recognized this interpretation of this proviso results in a "windfall" to regulated natural gas companies and excess charges to industrial users of natural gas, thus in a "regulatory gap" in its control of rates of natural gas companies. Accordingly the Commission has consistently recommended amendment of the Natural Gas Act to remove the proviso. For example, in its 34th annual report (1954), the FPC "Legislative Recommendations" include (p. 170):

"6. *Natural Gas Act. Sales for resale for industrial use only.*—That section 4(e) of the Natural Gas Act be amended so that the Commission will have authority to suspend rate schedules covering sales of natural gas for resale for industrial use only. This would require the deletion of the proviso now contained in that section."

Similar legislative recommendations of the FPC itself appear in—

Thirty-first annual report (1951), page 144.

Thirty-second annual report (1952), page 152.

Thirty-third annual report (1953), page 154.

Thirty-fifth annual report (1955), page 181.

Thirty-sixth annual report (1956), page 18.

Thirty-seventh annual report (1957), page 24.

Thirty-eighth annual report (1958), page 16.

Thirty-ninth annual report (1959), page 19.

Fortieth annual report (1960), page 17.

Forty-first annual report (1961) recommendation No. 1, page 2.

These bills would not otherwise affect the jurisdiction of the Federal Power Commission. Six pipeline companies supplying natural gas to parts of 17 States, of which the Cities Service Gas Co. which supplies our territory is one, now file separate industrial gas rates within the proviso of section 4(e) of the Natural Gas Act. Only when there is a separate industrial rate does the situation to which we object arise. This further illustrates the discriminatory effect of the proviso in section 4(e). Our research indicates the proviso may have been included in the original legislation because then most industrial gas rates were contract rates,

and it was believed undesirable to give the Commission power to suspend contractual rates. Now there are filed general industrial rates, and the result is to permit, as to this class of natural gas customers, rates to become effective 5 months prior to other rates due to lack of suspension authority and without legal right to refunds. Thus the regulated company is favored at the expense of consumers whom the act is designed to protect.

The amendment of the Natural Gas Act contained in these bills has earlier been favorably considered by the House. H.R. 6645 passed by the House on July 28, 1955, and S. 1853 passed by the Senate on February 6, 1956 (Harris-Fulbright bills), by section 4, deleted this proviso, but this act was later vetoed by the President. H.R. 6790 (1957) as reported from committee also deleted the proviso but was never brought to a floor vote.

We respectfully urge that this amendment of the Natural Gas Act is of vital concern to industrial consumers of natural gas, is not controversial, and is necessary for the effective regulation of natural gas companies by the Federal Power Commission.

We earnestly support S. 1594 and H.R. 6949 and urge this subcommittee to favorably recommend their passage.

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#### MIDWEST INDUSTRIAL AND COMMERCIAL GAS USERS ASSOCIATION

##### MEMBERS

- American Alloys Corp., 4446 Belleview, Kansas City, Mo. Gas Service Co., 1960, 101,706 M c.f.s.
- American Bakeries, 2401 Burlington, North Kansas City, Mo. Gas Service Co., 1960, 88,464 M c.f.s.
- American Beauty Macaroni Co., 501 Funston Road, Kansas City, Kans. Gas Service Co., 1960, 18,619 M c.f.s.
- American Can Co., 911 East 14th Ave., North Kansas City, Mo. Gas Service Co., 1960, 99,171 M c.f.s.
- American Sash & Door Co., 16th and Bellefontaine, Kansas City, Mo. Gas Service Co., 1960, 22,790 M c.f.s.
- Archer-Daniels Midland Co., St. Joseph, Mo. (usage at St. Joseph, Mo., North Kansas City, Mo., Mount Hope, Kans., and Belle Plaine, Kans.). Gas Service Co., 1960, 158,011 M c.f.s.
- Armour & Co., 18th and Central Avenue, Kansas City, Kans. Gas Service Co., 1960, 1,162,859 M c.f.s.
- The Atchison Topeka & Santa Fe Railway Co., Topeka, Kans. (usage at Arkansas City, Topeka, Newton, and Wichita). Gas Service Co., 1960, 860,900 M c.f.s.
- Beatrice Foods Co., Second and Polk Streets, Topeka, Kans. (usage at Topeka, Kans., Wichita, Kans., and St. Joseph, Mo.). Gas Service Co., 1960, 195,065 M c.f.s.
- Battenfeld Grease & Oil Corp., 3148 Roanoke Road, Kansas City, Mo. Gas Service Co., 1960, 120,039 M c.f.s.
- Hy-Klas Foods, Fifth and Mitchell Avenue, St. Joseph, Mo. Gas Service Co., 1960, 39,287 M c.f.s.
- Bemis Bros. Bag Co., 925 Wyoming, Kansas City, Mo. Gas Service Co., 1960, 17,039 M c.f.s.
- Bennett Creamery Co., Post Office Box 13, Ottawa, Kans. Gas Service Co., 1960, 111,252 M c.f.s.
- Bethany Hospital, 12th and Reynolds, Kansas City, Kans. Gas Service Co., 1960, 32,777 M c.f.s.
- Black, Sivalls & Bryson, Inc., 7500 East 12th Street, Kansas City, Mo. Gas Service Co., 1960, 1960, 60,322 M c.f.s.
- Board of Public Utilities, City Hall, Kansas City, Kans. Gas Service Co., 1960, 4,714,953 M c.f.s.
- Broadview Hotel, 400 West Douglas, Wichita, Kans. Gas Service Co., 1960, 30,800 M c.f.s.
- Butler Manufacturing Co., 7400 East 13th Street, Kansas City, Mo. Gas Service Co., 1960, 78,256 M c.f.s.
- Cessna Aircraft Co., 5800 Pawnee Road, Wichita, Kans. Gas Service Co., 1960, 97,928 M c.f.s.
- Colgate Palmolive Co., 17th and Kansas Avenue, Kansas City, Kans., Gas Service Co., 1960, 469,066 M c.f.s.

- Columbian Steel Tank Co., 1509 West 12th Street, Kansas City, Mo. Gas Service Co., 1960.
- The Connor Hotel, Fourth and Main, Joplin, Mo. Gas Service Co., 1960, 42,177 M c.f.s.
- Cook Paint & Varnish Co., 1412 Knox, North Kansas City, Mo. Gas Service Co., 1960, 101,134 M c.f.s.
- Corn Products Co., 1001 Bedford, North Kansas City 16, Mo. Gas Service Co., 1960, 2,504,607 M c.f.s.
- Desert Gold Feed Co., 620 East 16th Avenue, North Kansas City, Mo. (usage at Liberty, Mo.). Gas Service Co., 1960, 76,717 M c.f.s.
- W. S. Dickey Clay Manufacturing Co., Post Office Box 2028, Kansas City, Mo. (usage at Pittsburg, Kans.). Gas Service Co., 1960, 1,093,775 M c.f.s.
- Empire Cold Storage, 2722 Guinotte, Kansas City, Mo. Gas Service Co., 1960, 20,332 M c.f.s.
- Excel Packing Co., Inc., Post Office Box 2134, Wichita, Kans. Gas Service Co., 1960, 90,420 M c.f.s.
- Falls City Creamery Co., Box 440, Falls City, Nebr. Gas Service Co., 1960, 15,761 M c.f.s.
- J. A. Folger & Co., 330 West Eighth Street, Kansas City, Mo. Gas Service Co., 1960, 22,069 M c.f.s.
- Ford Motor Co., Post Office Box 1008, Kansas City, Mo. Gas Service Co., 1960, 778,177 M c.f.s.
- General Dynamics Corp., Liquid & Carbonics Division, 1339 Liberty Street, Kansas City, Mo. Gas Service Co., 1960, 93,654 M c.f.s.
- M. K. Goetz Brewing Co., 601 Albermale, St. Joseph, Mo. Gas Service Co., 1960, 218,114 M c.f.s.
- B. F. Goodrich Co., Post Office Box 31, Miami, Okla. Gas Service Co., 1960, 730,941 M c.f.s.
- Griffin Wheel Co., 7155 Kaw Drive, Muncie, Kans. Union Gas System, 1960, 60,192 M c.f.s.
- Gustin-Bacon Manufacturing Co., 210 West 10th Street, Kansas City, Mo. (usage at plants No. 5 and 7). Gas Service Co., 1960, 1,144,328 M c.f.s.
- Hallmark Cards, Inc., 25th and McGee Trafficway, Kansas City, Mo. Gas Service Co., 1960, 68,593 M c.f.s.
- Hill Packing Co., Box 148, Topeka, Kans. Gas Service Co., 1960, 86,396 M c.f.s.
- City of Independence Power Plant, 215 West Kansas, Independence, Mo. Gas Service Co., 1960, 1,233,410 M c.f.s.
- International Paper Co., 2100 Kansas Avenue, Kansas City, Kans. Gas Service Co., 1960, 56,034 M c.f.s.
- Interstate Bakeries Corp., 12 East Armour Boulevard, Kansas City, Mo. Gas Service Co., 1960, 60,435 M c.f.s.
- Kansas City Coca-Cola Bottling Co., 2540 West Pennway, Kansas City, Mo. Gas Service Co., 1960, 20,626 M c.f.s.
- The Kansas City Star Co., 1729 Grand Avenue, Kansas City, Mo. Gas Service Co., 1960, 97,474 M c.f.s.
- The Kansas Soya Products Co., Inc., Box 631, Emporia, Kans. Kansas Power & Light Co., 1960, 133,385 M c.f.s.
- Krause Corp., Inc., 305 South Monroe, Hutchinson, Kans. Gas Service Co., 1960, 31,674 M c.f.s.
- The LFM Manufacturing Co., Inc., Post Office Box 480, Atchison, Kans. (usage at St. Joseph, Mo., and Atchison, Kans.). Gas Service Co. and Kansas Power & Light Co., 1960, 212,270 M c.f.s.
- McNally-Pittsburg Foundry, 12th and Walnut, Pittsburg, Kans. (usage at both foundry and manufacturing plant). Gas Service Co., 1960, 29,204 M c.f.s.
- Manor Baking Co., 4050 Pennsylvania Avenue, Kansas City, Mo. Gas Service Co., 1960, 52,665 M c.f.s.
- Midwest Conveyor Co., 450 Donovan Road, Kansas City, Kans. Gas Service Co., 1960, 20,640 M c.f.s.
- Midwest Solvents Co., 1300 Main Street, Atchison, Kans. Kansas Power & Light Co., 1960, 816,229 M c.f.s.
- Milk Producers Marketing Co., 3250 Fairfax Road, Kansas City, Kans. Gas Service Co., 1960, 99,289 M c.f.s.
- Missouri-Kansas-Texas Railroad, Parsons, Kans. Gas Service Co., 1960, 77,229 M c.f.s.
- Missouri Portland Cement Co., North River Road, Independence, Mo. Gas Service Co., 1960, 1,407,274 M c.f.s.

- The Nemaha Cooperative Creamery Association, Sabetha, Kans. Gas Service Co., 1960, 106,308 M c.f.s.
- Osawatomie Power Plant, Osawatomie, Kans. Gas Service Co., 1960, 88,993 M c.f.s.
- The City Water & Light Department of City of Ottawa, Ottawa, Kans. Gas Service Co., 1960, 428,698 M c.f.s.
- Owens-Corning Fiberglas Corp., Post Office Box 326, Kansas City, Kans. Gas Service Co., 1960, 2,778,599 M c.f.s.
- Packaging Corp. of America, C. F. Downey Box Division, 3111 Fiberglass Road, Kansas City, Kans. Gas Service Co., 1960, 20,165 M c.f.s.
- Packaging Corp. of America, Mapes Molded Pulp Division, 10th and Erie, Kansas City, Mo. Gas Service Co., 1960, 199,871 M c.f.s.
- Pittsburg Corning Corp., Sedalia, Mo. Missouri Public Service Corp., 1960, 665,340 M c.f.s.
- H. T. Poindexter & Sons Merchandise Co., 801 Broadway, Kansas City, Mo. Gas Service Co., 1960, 20,480 M c.f.s.
- The Proctor & Gamble Manufacturing Co., 19th and Kansas Avenue, Kansas City, Kans. Gas Service Co., 1960, 1,475,875 M c.f.s.
- Pure Carbonic Co., Merchandise Mart Building, Kansas City, Mo. (usage at Kansas City, Kans., plant), 1960, 474,923 M c.f.s.
- Rainbo Bread Co., 23d and Frederick Avenue, St. Joseph, Mo. Gas Service Co., 1960, 21,395 M c.f.s.
- Ralston Purina Co., 2334 Rochester, Kansas City, Mo. Gas Service Co., 1960, 338,888 M c.f.s.
- Reda Pump Co., 509 West First Street, Bartlesville, Okla. Gas Service Co., 1960, 61,498 M c.f.s.
- Ruberoid Co., 7600 Truman Road, Kansas City, Mo. Gas Service Co., 1960, 483,372 M c.f.s.
- Rupert Diecasting & Stamping Co., 1655 Cleveland Avenue, Kansas City, Mo. Gas Service Co., 1960, 74,501 M c.f.s.
- St. Elizabeth's Mercy Hospital, 500 West 20th Street, Hutchinson, Kans. Gas Service Co., 1960, 25,136 M c.f.s.
- St. Joseph Hospital, Linwood and Prospect, Kansas City, Mo. Gas Service Co., 1960, 59,868 M c.f.s.
- St. Joseph Hospital, 923 Powell Street, St. Joseph, Mo. Gas Service Co., 1960, 39,854 M c.f.s.
- St. Joseph Light & Power Co., 520 Francis Street, St. Joseph, Mo. Gas Service Co., 1960, 6,278,706 M c.f.s.
- St. Luke's Hospital, 4400 Nichols Parkway, Kansas City, Mo. Gas Service Co., 1960, 89,295 M c.f.s.
- St. Mary's Hospital, 101 Memorial Drive, Kansas City, Mo. Gas Service Co., 1960, 77,449 M c.f.s.
- Safeway Stores, Inc., 306 East 12th Street, Kansas City, Mo. (usage at bakery in Joplin, Mo.), 1960, 38,825 M c.f.s.
- Schreiber Mills, Inc., Eighth and Mitchell Avenue, St. Joseph, Mo. Gas Service Co., 1960, 14,693 M c.f.s.
- Sealright Co., Inc., 2935 Fairfax Road, Kansas City, Kans. Gas Service Co., 1960, 28,365 M c.f.s.
- Sears, Roebuck & Co., 1500 Cleveland, Kansas City, Mo. Gas Service Co., 1960, 117,972 M c.f.s.
- Security National Bank, Seventh and Minnesota, Kansas City, Mo. Gas Service Co., 1960.
- City of Sedalia, Mo., Sedalia, Mo. Gas Service Co., 1960.
- Seitz Packing Co., Box 347, St. Joseph, Mo., (usage at two plants). Gas Service Co., 1960, 62,177 M c.f.s.
- Seymour Foods, Inc., Post Office Box 116, Topeka, Kans. Gas Service Co., 1960, 63,014 M c.f.s.
- Sheffield Steel, Division of Armco Steep Corp., Sheffield Station, Kansas City, Mo. Gas Service Co., 1960, 4,586,417 M c.f.s.
- Sisters of Mercy Hospital, 901 Burke Street, Fort Scott, Kans. Gas Service Co., 1960, 32,508 M c.f.s.
- Speas Co., 2400 Nicholson Avenue, Kansas City, Mo. Gas Service Co., 1960, 131,015 M c.f.s.
- Stahl Specialty Co., Kingsville, Mo. Gas Service Co., 1960, 29,843 M c.f.s.
- Standard Milk Co., O. E. Moore & Sons, Aurora, Mo. Gas Service Co., 1960, 99,356 M c.f.s.

- Standard Rendering Co., 685 Adams, Kansas City, Kans. Gas Service Co., 1960, 76,639 M c.f.s.
- Steffen Dairy Foods Co., 700 East Central, Wichita, Kans. Gas Service Co., 1960, 32,075 M c.f.s.
- Stern-Slegman-Prins Co., 3122 Gillham Plaza, Kansas City, Mo. Gas Service Co., 1960, 14,412 M c.f.s.
- Stewart Sand & Material Co., 5801 Kansas Avenue, Kansas City, Kans. Gas Service Co., 1960, 50,075 M c.f.s.
- Sunshine Biscuits, Inc., 801 Sunshine Road, Kansas City, Kans. Gas Service Co., 1960, 173,130 M c.f.s.
- Swift & Co., Packers Station, Kansas City, Kans. Gas Service Co., 1960, 1,010,669 M c.f.s.
- Tension Envelope Corp., 819 East 19th Street, Kansas City, Mo. Gas Service Co., 1960, 22,567 M c.f.s.
- Town House Hotel, Seventh and State, Kansas City, Kans. Gas Service Co., 1960, 33,908 M c.f.s.
- Tranin Egg Products Co., 217 Oak Street, Kansas City, Mo. Gas Service Co., 1960, 21,472 M c.f.s.
- Trumbull Asphalt Co. of Delaware, 833 Armour Road, North Kansas City, Mo. Gas Service Co., 1960, 257,504 M c.f.s.
- United States Cold Storage Corp., 500 East Third Street, Kansas City, Mo. Gas Service Co., 1960, 13,377 M c.f.s.
- United States Gypsum Co., 1115 Armour Road, North Kansas City, Mo. Gas Service Co., 1960, 403,056 M c.f.s.
- The Vendo Co., 7400 East 12th Street, Kansas City, Mo. Gas Service Co., 1960, 96,673 M c.f.s.
- Whiteaker Metals Corp., 110 East 13th Avenue, North Kansas City, Mo. Gas Service Co., 1960, 57,393 M c.f.s.
- Winchester Packing Co., Inc., 521 South Main, Hutchinson, Kans. Gas Service Co., 1960, 35,545 M c.f.s.
- Associated Laundry Owners of Greater Kansas City, Hotel President, 14th and Baltimore, Kansas City, Mo. (consisting of 200 members operating laundry and drycleaning establishments).

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS of Texas. There is one question that has come to my mind which is, probably, away from the primary problem here. In the Topeka area—in that general area—do you have a great deal of intrastate gas supply that you are using to meet your needs or the needs of the space heaters, things of that kind?

Mr. SLOAN. There are a few. There are one or two sections that just offhand I cannot name—I can only think of one—there may be other small ones—only one fairly major system, the Kansas Power & Light, that has a division that furnishes gas that is wholly intrastate. Most of the gas suppliers are interstate.

Mr. ROGERS of Texas. How far is the nearest field to the Topeka area?

Mr. SLOAN. The Hugoton field would be our source of supply.

Mr. ROGERS of Texas. Do you not have the gas nearer than that, though?

Mr. SLOAN. Not in our area. At one time in southern Kansas there was a good supply of gas, but that is almost wholly exhausted. There may be a few wells, but they are of no significance.

Mr. ROGERS of Texas. Thank you very much.

The CHAIRMAN. Thank you.

Is Mr. Robert Lee Hall, vice president of the International Coal Association, present?

## STATEMENT OF JEROME McGRATH, WASHINGTON, D.C.

Mr. McGRATH. Mr. Hall is not here. I am Mr. McGrath, representing the National Coal Association. We would be happy to ascertain his whereabouts.

The CHAIRMAN. Do you have any other witnesses?

Mr. HARRIS. I think that if Mr. Hall wishes to file a statement for the record he may have that permission.

Mr. McGRATH. Thank you very much, Mr. Chairman. I shall so inform him.

The CHAIRMAN. A letter has been submitted addressed to me from the State Corporation Commission of Topeka, Kans., which will be inserted into the record at this point.

(The document referred to follows:)

STATE OF KANSAS,  
STATE CORPORATION COMMISSION,  
Topeka, February 13, 1962.

HON. MORGAN MOULDER,  
Chairman, Subcommittee on Communications and Power of House Interstate and Foreign Commerce Committee, New House Office Building, Washington, D.C.

DEAR MR. MOULDER: The State of Kansas Corporation Commission, a State administrative agency, is charged by statute with the duty of regulating all public utilities within the State. We understand that Senate bill 1595, which would amend the Natural Gas Act and give the Federal Power Commission authority to suspend changes in rates, charges and classifications, or services for the sale of natural gas for resale for industrial use only, is now pending before the House Subcommittee on Communications and Power, of which you are chairman. This commission wholeheartedly supports such legislation.

As you are undoubtedly aware, at the present time whenever a rate increase is filed with the Federal Power Commission by an interstate pipeline company, the proposed increased rate becomes effective within 30 days after such filing for all industrial consumers who purchase from an intermediate gas distributing company. Subsequently, if the proposed pipeline company rate increase is reduced by the FPC, those payments made during this interim period by industrial users, which exceed the new rate set by the FPC, are not subject to refund. Such practice results in a windfall to the pipeline company because neither this commission nor the Federal Power Commission has the authority to suspend or order refund for these particular rates and sales.

It is our belief that since such sales are sales in interstate commerce, they should, in the public interest, be subject to suspension by the FPC, and Senate bill 1595 will accomplish this purpose.

We hope this legislation will receive favorable action from your subcommittee and this commission is in unanimous support of this bill.

Yours very truly,

RICHARD C. BYRD,  
Chairman.  
ALVIN F. GRAUERHOLZ,  
Commissioner.  
HARRY G. WILES,  
Commissioner.

The CHAIRMAN. We will now conclude the hearings on H.R. 6949 and S. 1595.

(Whereupon, at 11 a.m., the subcommittee proceeded into executive session.)

(The following letters were received for the record:)

STATE OF MICHIGAN,  
PUBLIC SERVICE COMMISSION,  
Lansing, Mich., February 13, 1962.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,  
House Office Building, Washington, D.C.

DEAR CHAIRMAN HARRIS: The Michigan Public Service Commission has received notice of a public hearing to be held on February 14, 1962, before your

committee regarding amendment of section 4(e) of the Federal Natural Gas Act with respect to the authority of the Federal Power Commission over industrial gas sales.

At present the Natural Gas Act provides in section 4(e) that the Commission may suspend filed increased rates not to exceed 5 months pending investigation of same, and further that after the suspension period has elapsed the Commission may require the filed rate to be collected under bond subject to refund if same is ultimately found to be unjust and unreasonable. Such authority to suspend rates specifically does not extend to sale of natural gas for resale to industrial use only. Under present conditions, a pipeline may file and commence collection of increased rates at any level it chooses. The Federal Power Commission may investigate such rate under authority specified in section 5(a) of the act, and if same is found unjust and unreasonable may reduce same. However, at present, such rates ultimately found unjust and unreasonable are not subject to refund. Also, nothing prevents the pipeline company, immediately after the Commission's order from again filing increased rates which may be unjust and unreasonable.

The Michigan Public Service Commission favors an amendment to section 4(e) of the Natural Gas Act providing for suspension of rates for gas for resale for industrial use only, together with collection of same under bond subject to refund pending determination of the justness and reasonableness thereof. The Michigan Commission believes that such industrial customers should be afforded the same protection as now applicable to other jurisdictional customers.

No gas is sold in Michigan for resale for industrial use only, and the Michigan Commission is primarily concerned with correction of a situation it believes to be objectionable in other States.

Yours very truly,

JAMES H. INGLIS, *Chairman.*

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LAW OFFICES,  
GAMBRELL, HARLAN, RUSSELL, MOYE & RICHARDSON,  
*Atlanta, Ga., February 13, 1962.*

In re S. 1595 and H.R. 6949.

HON. MORGAN M. MOULDER,

*Member of Congress, Chairman, Communications and Power Subcommittee of Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN MOULDER: Our firm is counsel for the Georgia Textile Manufacturers Association, Inc., and the Georgia Industrial Gas Users Association. The members of these two associations include most of the large industrial users of natural gas in the State of Georgia, purchasing such gas at retail from various distributors who purchase from Southern Natural Gas Co., South Georgia Natural Gas Co., and Transcontinental Gas Pipeline Co.

The members of these associations strongly urge your subcommittee to recommend adoption of the above identical bills, which propose to remove a discriminatory proviso in section 4(e) of the Natural Gas Act.

Section 4(e) of the Natural Gas Act, as you know, authorizes the Federal Power Commission to suspend for 5 months rate increases proposed by the natural gas companies subject to its jurisdiction. However, the proviso which these bills would repeal removes from the FPC's power to suspend increases in rates applicable to gas sold for industrial use only. The rank discrimination which thus exists under the Natural Gas Act has never been justified, and its removal was actually adopted by Congress in 1955 in the Harris bill which President Eisenhower subsequently vetoed for other reasons.

In the past 9 years the retail rates at which the members of these associations, and other industrial users in Georgia, purchase their gas supply have been increased approximately 70 percent. The discriminatory proviso has cost them hundreds of thousands of dollars in the several rate cases through which that increase was accomplished and also substantially weakened their bargaining position in the settlement conferences in those cases.

We feel sure that you can understand the weakness of their position in a settlement conference with the pipeline and other parties to the proceeding when they already have to pay the full amount of the increase, without hope for refund, while others have payment of any of the increases postponed for 5 months and then pay the increase only subject to bond for refund of any amounts ruled excessive by the Federal Power Commission. Our clients simply had to settle, even though

the settlement might not have been the best which could have been worked out under more favorable bargaining conditions.

We urge you and the members of your subcommittee, therefore, to recommend passage of this remedial legislation.

Respectfully yours,

GAMBRELL, HARLAN, RUSSELL, MOYE & RICHARDSON,  
By THEODORE M. FORBES, Jr.

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NATIONAL COAL ASSOCIATION,  
Washington, D.C., February 14, 1962.

Re: H.R. 6949 (Natural Gas Act amendments).

HON. OREN HARRIS,

*House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN HARRIS: We did not hear about the scheduled hearing on H.R. 6949 until around 10 a.m. today which was the same hour that the hearings were scheduled to commence. We telephoned your staff and they were kind enough to schedule me as an emergency witness, but I was not able to get there before the hearings were closed.

It is my understanding that we will be permitted to file a position paper on this which will be included in the record of the proceedings. At the same time, you may be interested in my letter of February 12, 1962, which was addressed to Senator Magnuson in his capacity as chairman of the Senate Commerce Committee, setting forth the coal position on S. 2744. This measure was introduced in the Senate on January 25 for the specific purpose of implementing the legislative recommendations of the Federal Power Commission which were submitted to the Congress on January 10.

I am calling your attention to this letter because the FPC recommendations are pertinent to the hearing on H.R. 6949 and any other hearings you may schedule in the future in connection with the proposals to amend the Natural Gas Act. It would be my hope that this letter would serve as advance notice of our interest in any such proceedings in the future and that we will be accorded the opportunity to appear and testify as our interests may appear.

I wish to again thank your staff for their courtesy in making a last-minute scheduling of NCA in connection with the hearing on H.R. 6949. I am only sorry that I was unable to gather up a few exhibits and papers in sufficient time to arrive and respond when my name was called.

Cordially,

ROBERT E. LEE HALL.

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NATIONAL COAL ASSOCIATION,  
Washington, D.C., February 12, 1962.

Re coal position on S. 2744, natural gas amendments.

HON. WARREN G. MAGNUSON,

*Chairman, Senate Commerce Committee,  
Senate Office Building, Washington, D.C.*

DEAR SENATOR MAGNUSON: On January 25, 1962, you introduced a bill (S. 2744) to amend the Natural Gas Act in accordance with the legislative recommendations of the Federal Power Commission submitted to the Congress on January 10, 1962. The National Coal Association, a trade organization representing about 70 percent of the total commercially produced and marketed coal in the United States, has a vital interest in the legislation recommended by the Federal Power Commission and reflected in the measure introduced by yourself. We would, therefore, like to submit for your consideration our views on the proposals embraced in S. 2744 and comment on some related matters in connection therewith.

Before discussing the specifics of the bill, however, it might be well to point up the nature of our interest in natural gas matters. Natural gas being an energy fuel is sold in competition with coal in most, if not all, of the coal consuming areas of the country. The inroads of natural gas on coal markets have had a serious and adverse impact on the coal industry, the men employed in the mining of coal and the coal hauling railroads which depend so much on revenues derived from the transportation of coal. Significantly, the 1942 amendment to the Natural

Gas Act was in large measure brought about due to recognition by Congress that rapid and uncontrolled expansion of natural gas service could have a deleterious effect upon competing fuels and competitive methods of transportation and that the Commission should be empowered to give consideration to such matters in its administration of the act (Cf. S. Rept. 984, 77th Cong., 2d sess.; H. Rept. 1290 77th Cong., 2d sess.).

Since 1942, this association together with other related interests including the United Mine Workers of America and Fuels Research Council, Inc., an organization representing both coal producers and many of the principal railroads, has actively participated in numerous proceedings before the Federal Power Commission. Over this period of time we have become thoroughly familiar with the various provisions of the act and it is upon 20 years of experience that the following analysis of S. 2744 relies.

The comments to follow will be directed to only those sections of the bill which we feel are deserving of comment at this time. Those sections not covered by our remarks propose amendments concerning which this association has no particular feeling either for or against enactment.

#### SECTION 1—DIRECT SALES FOR INDUSTRIAL USE

This section of S. 2744 which would amend sections 1 (b) and (c) of the act should be enacted and thus close a serious gap which now exists in the Commission's regulatory authority. There is no practical or logical reason for excluding direct sales of gas for industrial use from FPC jurisdiction. As Chairman Swidler pointed out to you in his letter transmitting the Commission's recommendations for amending the act and which are now embodied in S. 2744, the Commission would be better able to perform its duties and protect the public interest if it had authority over direct sales. Unregulated industrial direct sales of gas by pipelines alone constituted 14 percent of the total marketed production of natural gas in 1960. Without opportunity to control such sales, particularly as to price, the Commission has thus been foreclosed from assuring that direct sales in all cases carry their fair share of the costs of pipeline operations. Furthermore, as Chairman Swidler noted, putting direct sales of gas for industrial use under the jurisdiction of FPC would eliminate the incentive which now exists to divert gas to inferior uses—uses, such as boiler fuel, for which a more abundant fuel, such as coal, is equally suitable and available at reasonable cost. Enactment of this legislation would thus permit the Commission to advance more effectively the conservation principles endorsed by the Supreme Court in *FPC v. Transcontinental Gas Pipe Line Corp.* (365 U.S. 1, 5 L. Ed. 2d 377 (1961)). Important also is the fact that the Commission's ratemaking functions would become greatly simplified and the time-consuming task of separating costs between jurisdictional and nonjurisdictional service would be minimized. As the act now stands, the Commission is authorized to regulate sales in interstate commerce for resale, but is barred from full and complete regulation over sales of gas in interstate commerce if the gas is to be consumed by the purchaser even though both categories of service make substantial use of the same pipeline facilities. Complete and comprehensive authority in the Commission is imperative if the Commission is to discharge properly its responsibilities under the act.

#### SECTION 2—REDEFINITIONS UNDER SECTION 2.

The amendments proposed in this section of S. 2744 are necessary and desirable and would serve to implement, in part, some of the other changes recommended by the Commission and embraced in S. 2744.

Section 2(a) of the bill would redefine "Natural Gas Company" so as to make the definition conform to the change set forth in section 1; viz, bringing direct sales of natural gas for industrial use within the ambit of the Commission's authority. The comments heretofore made in connection with section 1 of the bill, of course, would apply here with equal force.

Section 2(b) of S. 2744 would serve to correct a glaring deficiency in the act by giving the Commission additional authority with respect to importation and exportation of natural gas. Much confusion has arisen over the years as to the extent of the Commission's jurisdiction over companies exporting or importing natural gas to or from a State adjacent to the international border. The amendment to section 2(7) of the act would remove this doubt and would make clear that all provisions of the act, including both sections 3 and 7, would apply to such companies. (See, e.g., *Re Montana Power Co.*, 11 FPC 1 (1952) and more particularly Commissioner Smith's concurring opinion at p. 11.) Foreign natural

gas from both Canada and Mexico is increasingly becoming a threat to domestic fuel markets. As a matter of fact, Canadian gas has all but destroyed the Montana coal industry. Lack of authority in the FPC to exercise control over the importer, in that case Montana Power Co., contributed to this undesirable situation. This association feels strongly that the loophole in the Commission's authority thwarts effective regulation and prevents the Commission from giving adequate protection to citizens of this country.

#### SECTION 3—REVISION OF SECTION 3 DEALING WITH IMPORTATION AND EXPORTATION OF NATURAL GAS

Section 3 of S. 2744 would streamline and make more workable the standard which the Commission must follow in considering applications for import and export permits. As section 3 now reads, the standard is a negative one which requires that the Commission shall issue a permit "unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest." The amendment proposed by the Commission would revise section 3 so that orders issued pursuant thereto would be based upon affirmative findings such as are now made under section 7 in certificate proceedings. Moreover, unless section 3 is amended as proposed in S. 2744, there would appear to be two standards of proof under the act. Section 7 requires that an applicant show that any proposed "operation, sale, service, construction, extension, or acquisition \* \* \* is or will be required by the present or future public convenience and necessity." The present section 3 standard, on the other hand, is entirely different in that it imposes upon the Commission the duty to issue import and export permits upon a finding that such issuance is not inconsistent with the public interest. That the standards differ appears to find support in *Pacific Power and Light Co. v. FPC*, 111 F. 2d 1014 (1940), where a standard in the Federal Power Act similar to section 3 was in issue.

#### SECTION 5—VARIOUS AMENDMENTS TO SECTION 7 OF THE ACT

By and large, the amendments proposed in S. 2744 to section 7 if enacted would seem to make for more effective regulation of that segment of the gas industry subject to FPC jurisdiction. However, we do not believe the Commission has been seriously hampered by the existing notice and hearing requirement contained in 7(c). This provision in fact has acted as a safeguard to the public in assuring that all proposals which come before the Commission pursuant to this section are properly noticed and an opportunity afforded all persons who may be affected by the action taken by the Commission to be heard if circumstances warrant intervention. While it would appear that the amendment contained in section 5(b) of S. 2744 would protect the interests of all persons who may be affected by any order of the Commission in any proceeding before it, there is still uncertainty as to whether all certificate applications will be noticed or only those which the Commission or the staff conclude should be noticed. If the former, then of course this association and others similarly situated would be completely protected under the amendment as proposed; if the latter, then the amendment would be completely objectionable. [Italic ours.]

The proposed new section (j) of S. 2744, which would give the Commission authority to prescribe safety standards for natural gas companies is highly desirable and in the public interest. Most pipelines attempt to adhere to various standards of safety in construction of facilities, but these standards are neither uniform nor are they in all cases adequate. Some States have fairly rigid safety regulations while other States have none at all. Consistency, as well as the dictates of public safety, requires that the Commission be entrusted with the establishment and enforcement of sound safety regulations.

#### SECTION 7—BROADENED INVESTIGATORY AUTHORITY

S. 2744 would amend section 14 of the act so as to enlarge the Commission's investigatory powers and enable it to compile badly needed statistics and reports on all phases of the natural gas industry. With such authority vested in the Commission, the Congress, the Commission, the gas industry, the gas consumers, and the public generally would be better informed and in a position to evaluate on a national scale gas reserves, potential demand, rates to consumers and other data of like importance. Unfortunately, the Commission is without authority to make comprehensive studies of the entire gas industry and is thus hampered in effectively informing the public and in keeping itself informed on the vital statistics necessary to orderly regulation.

The need for such authority is so patent that further elaboration here would be superfluous.

In summary, this association supports the provisions of S. 2744. However, the bill falls short in meeting some of the deficiencies in the present act which we believe militate against effective regulation. For example, the Commission's ratemaking powers as set forth in sections 4 and 5 of the act should be amended so as to make clear the scope of the Commission's power in fixing rates. The Commission at this time has authority to review and when necessary order adjustments in rates, but it is powerless to order an increase (particularly unreasonably low industrial rates) in rates above those filed by the Natural Gas Co. Thus limited, the Commission is compelled to approve, in many instances, low industrial rates for boiler fuel and other inferior uses of gas. As the Chairman well knows, natural gas is a valuable and exhaustible natural resource which is limited in supply. One of the important responsibilities of the Commission, as the Supreme Court held in the *Transco* case (*supra*), is to apply sound measures of conservation wherever appropriate. But because of a ruling of the Supreme Court in the *Hope* case (*FPC v. Hope Natural Gas Co.*, 320 U.S. 591 (1944)) that the Commission cannot consider conservation in the establishment of a pipeline rate, there has been confusion and doubt over the extent of FPC authority to fix rates which would tend to discourage sales of gas for inferior purposes. This is inconsistent with the later Supreme Court view (*Transco* case) that the Commission has definite conservation responsibility. It would seem entirely appropriate therefore that consideration be given by the Congress to amendments which would remove the ambiguities in the Commission's conservation authority.

It would also seem highly desirable that Congress give consideration to inserting language in the act which would establish a policy of favoring maximum utilization and development of underground gas storage so as to create an incentive for its pursuit by pipeline companies. Such an amendment would serve the public interest well and would encourage conservation of the diminishing supplies of natural gas in this country. We are pleased that the Commission over the years has itself adopted a policy of favoring underground storage and we have every reason to believe that it will continue to foster this concept of efficient pipeline operation. Nevertheless, a congressional mandate reflected in the act would greatly strengthen the Commission's hand in these respects.

Should you desire, we would be pleased to consult with our committee staff for further explanation of our position or submit recommendations on specific statutory language to carry out the suggestions set forth above. In the event that public hearings are scheduled, we respectfully ask for the right to appear and present witnesses in support of the views herein expressed.

Respectfully submitted,

ROBERT E. LEE HALL,  
Vice President.





