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HEARING
BEFORE THE
SUBCOMMITTEE ON ENERGY AND POWER
OF THE
COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE
HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

H.R. 2500

A BILL TO AUTHORIZE THE PRESIDENT OF THE UNITED STATES TO ORDER EMERGENCY DELIVERIES AND TRANSPORTATION OF NATURAL GAS TO DEAL WITH EXISTING OR IMMINENT SHORTAGES BY PROVIDING ASSISTANCE IN MEETING REQUIREMENTS FOR HIGH-PRIORITY USES; TO PROVIDE AUTHORITY FOR SHORT-TERM EMERGENCY PURCHASES OF NATURAL GAS; AND FOR OTHER PURPOSES

JANUARY 28, 1977

Serial No. 95-1

Printed for the use of the
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American Gas Association:

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 Seymour, Robert E., chairman of the board.

American Natural Resources Co., Arthur R. Seder, Jr., chairman and chief executive officer.

American Public Gas Association, Charles F. Wheatley, Jr., general counsel.

Celanese Chemical Co., Bruce A. Melaas, director of energy affairs.

Columbia Gas System, Bernard J. Clarke, chairman and president.

Consumer Federation of America, Lee C. White, chairman, energy policy task force.

Energy Action Committee, James F. Flug, director and counsel.

Executive Office of the President, James R. Schlesinger, Ph. D.

Federal Power Commission:

 Dunham, Hon. Richard L., Chairman.

 Holloman, John H., Commissioner.

 Journey, Drexel D., General Counsel.

 Smith, Don S., Commissioner.

 Watt, James, Commissioner.

ORGANIZATIONS REPRESENTED AT THE HEARING—Continued

Independent Petroleum Association of America:

Jones, A. V., Jr., president.

Scoggins, H. B., general counsel and vice president, congressional affairs.

Iron and Steel Institute, Gerald Curtis, director of engineering services, Armco Steel.

National Council of Farmer Cooperatives, Bill Brier, director of energy resources.

National Oceanic and Atmospheric Administration, Donald Gilman, Ph. D., Chief,

Long Range Prediction Group, National Weather Service.

Natural Gas Supply Committee, David H. Foster, executive vice president.

Southern Natural Gas Co., Peter G. Smith, president and chief executive officer.

Texas Eastern Transmission Corp., Jack D. Head, executive vice president.

EMERGENCY NATURAL GAS ACT OF 1977

FRIDAY, JANUARY 28, 1977

HOUSE OF REPRESENTATIVES,
AD HOC SUBCOMMITTEE ON ENERGY AND POWER,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The ad hoc subcommittee met at 9:30 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. John D. Dingell, chairman, presiding.

Mr. DINGELL. The subcommittee will come to order.

We meet this morning as an ad hoc subcommittee to consider the recent proposal of the President dealing with the natural gas emergency facing the country.

The natural gas shortages facing the Nation are critical and likely to get worse before they improve. With the exception of the Far West, the United States is experiencing the coldest weather on record. Significantly, the coldest weather has been concentrated in those regions where natural gas consumption is the greatest.

As a consequence, high priority demand for natural gas to heat homes, schools, and business establishments has soared. This demand has cut heavily into supplies of natural gas which would otherwise be available to industrial consumers—resulting in plant shutdowns and widespread unemployment. Industrial plant closings directly attributable to the severe weather conditions gripping the eastern half of the Nation have caused the loss of over 400,000 jobs. Many States in the upper Midwest and along the Atlantic coast have suffered severe economic hardship.

It should be made clear that the problems we face this winter are related only tangentially to the decline of natural gas production during the past several years. In fact, preliminary indications are that production of interstate gas is up nearly 6 percent over last year. The immediate problem is weather-related. Pipeline transportation capacity and storage facilities were never designed to meet the extraordinary temperature-sensitive demands for natural gas which have been created by this winter's unprecedented cold.

Indeed, let there be no mistake that the problems we face today would certainly be with us even if natural gas had been deregulated a year ago. Deregulation proponents concede that no supply response to deregulation is probable for at least 3 years due to the long lead times required to find and deliver new supplies of natural gas. The current spot shortages of natural gas in producing States attest to the fact that it is extreme weather conditions, rather than the existence of Federal regulation alone, which have resulted in the current emergency.

It is clear that governmental action must be taken on a crash schedule to address our worsening natural gas supply situation. We should not permit a protracted debate about long-term natural gas proposals to delay the rapid enactment of emergency legislation. To do so, in my opinion, is both dangerous and irresponsible.

We cannot ignore the realities of our long-term natural gas problems. The Congress will consider, on an expeditious basis, long-term natural gas issues. President Carter has indicated that his planned comprehensive energy message will contain recommendations related to the long-term natural gas issue. We should not, however, await these recommendations before addressing the very real emergency before us.

President Carter has proposed emergency natural gas legislation to deal with the current crisis. This legislation contains two major provisions:

First, the legislation authorizes the President to allocate supplies of natural gas between the interstate pipelines to assure that essential requirements of high priority users of natural gas are met. Second, the bill seeks to increase the volumes of natural gas available to interstate pipelines by authorizing the President to approve emergency purchases of natural gas apart from Federal price and regulatory restrictions.

Today's witnesses will include the President's energy adviser, members of the Federal Power Commission, Governors of several affected States, representatives of pipelines, consumers, natural gas producers, local distribution companies, and industrial end users.

[The text of H.R. 2500 follows:]

[H.R. 2500, 95th Cong., 1st sess., introduced by Mr. Staggers (by request) (for himself, Mr. Devine, Mr. Dingell, Mr. Sharp, Mr. Ottinger, Mr. Moffett, Mr. Maguire, and Mr. Moorhead of California) on January 26, 1977.]

A BILL To authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high-priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Natural Gas Act of 1977".

DEFINITIONS

SEC. 2. As used in this Act:

- (1) The term "high-priority use" means—
 - (A) use of natural gas in a residence;
 - (B) use of natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or
 - (C) any other use of natural gas the termination of which the President determines would endanger life, health, or maintenance of physical property.
- (2) The term "interstate pipeline" means any person engaged in the transportation by pipeline of interstate natural gas.
- (3) The term "intrastate pipeline" means any person (other than an interstate pipeline) engaged in the transportation by pipeline of natural gas.
- (4) The term "interstate natural gas" means natural gas which, but for this Act, is subject to the Natural Gas Act.
- (5) The term "local distribution company" means any person (including a governmental entity) which receives natural gas for local distribution and resale to natural gas users.
- (6) The term "antitrust laws" means the Sherman Act, the Clayton Act, the Federal Trade Commission Act, the Wilson Tariff Act, and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a), and similar State laws.
- (7) The term "State" means any State of the United States and the District of Columbia.

PRESIDENTIAL DECLARATION

SEC. 3. The President may declare a natural gas emergency if he finds that a severe natural gas shortage endangering the supply of natural gas for high-priority uses exists or is imminent in the United States or any region thereof and that the exercise of his authorities under section 4 is reasonably necessary to assist in meeting requirements for such uses. Such emergency shall be terminated when the President finds that such shortages no longer exist and are no longer imminent.

EMERGENCY DELIVERIES AND TRANSPORTATION OF NATURAL GAS

SEC. 4. (a) (1) If the President finds it necessary to assist in meeting the requirements for high-priority uses of natural gas (including storage replenishment or injection), on the basis of a request by the Governor of any State pursuant to subsection (c) or on the basis of other information available to the President, the President may, during a natural gas emergency declared under section 3, by order, require—

(A) any interstate pipeline to make emergency deliveries of, or to transport, interstate natural gas to any other interstate pipeline or to any local distribution company served by an interstate pipeline for purposes of meeting such requirements;

(B) any intrastate pipeline to transport interstate natural gas from any interstate pipeline to another interstate pipeline or to any local distribution company served by an interstate pipeline for purposes of meeting such requirements; or

(C) the construction and operation by any pipeline of any facilities necessary to effect such deliveries or transportation.

No such delivery or transportation may continue after April 30, 1977, or after the President terminates the emergency declared under section 3, whichever is earlier.

(2) No order may be issued under this subsection unless the President determines that such order will not—

(A) create for the interstate pipeline delivering interstate natural gas a supply shortage which will cause such pipeline to be unable to meet the requirements for high-priority uses served, directly or indirectly, by such pipeline;

(B) result in deliveries of natural gas from such pipeline which are excessive (as determined by the President) in relation to deliveries which are required under orders applicable to other interstate pipelines; and

(C) require transportation of natural gas by such pipeline in excess of its available transportation capacity.

(b) Compliance by any pipeline with an order issued under subsection (a) shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of State or Federal law. No action required to be taken under an order issued under subsection (a) shall be subject to any provision of the Natural Gas Act and any such order shall supersede any provision of a certification, or other requirement, under the Natural Gas Act which is inconsistent with such order.

(c) (1) The Governor of any State may notify the President of any finding by such Governor that a shortage of natural gas within such State, endangering the supply of natural gas for high-priority uses, exists or is imminent and that the State, and agencies and instrumentalities thereof, have exercised their authority to the fullest extent practicable and reasonable under the circumstances to overcome such shortage.

(2) The Governor shall submit, together with any notification under paragraph (1), information upon which he has based his finding under such paragraph, including—

(A) volumes of natural gas required to meet the requirements for high-priority uses in such State;

(B) information received from persons in the business of producing, selling, transporting, or delivering natural gas in such State as to the volumes of natural gas available in such State; and

(C) such other information as the Governor determines appropriate to apprise the President of emergency deliveries and transportation of interstate natural gas needed in such State.

(d) The President may request that representatives of interstate pipelines, intrastate pipelines, local distribution companies, and other persons meet and provide assistance to the President in carrying out his authority under this section.

(e)(1) In order to obtain information to carry out his authority under this section, the President may—

(A) sign and issue subpoenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, requests for reports or for other information, and such answers shall be made within such reasonable period, and under oath or otherwise, as the President may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The appropriate United States district court may, upon petition of the Attorney General at the request of the President, in the case of refusal to obey a subpoena or order of the President issued under this subsection, issue an order requiring compliance therewith, and any failure to obey an order of the court may be punished by the court as a contempt thereof.

(f)(1) If the parties to any order issued under subsection (a) fail to agree upon the terms of compensation for deliveries (which may include compensation in kind) or transportation required pursuant to such order, the President, after a hearing held either before or after such order takes effect, shall, by supplemental order, prescribe the amount of compensation to be paid for such deliveries or transportation and for any other expenses incurred in delivering or transporting such gas.

(2) For purposes of paragraph (1), the President shall calculate the amount of compensation—

(A) for deliveries of natural gas, based upon the reasonable replacement cost of such gas, as determined by the President, plus not more than 5 per centum of such cost; and

(B) for transportation and other expenses, based upon reasonable costs, as determined by the President.

ANTITRUST PROTECTIONS

SEC. 5. (a) There shall be available as a defense to any action brought under the antitrust laws (1) that the activity which is the subject of such action was pursuant to a request of the President under section 4(d) or was necessary to carry out an order under section 4(a), and (2) in the case of any meeting, that such meeting was pursuant to such a request or necessary to carry out such an order and was in compliance with the requirements of subsection (b).

(b) A meeting held pursuant to a request by the President under section 4(d) or pursuant to an order under section 4(a) complies with the requirements of this subsection if—

(1) there is present at such meeting a full-time Federal employee designated for such purposes by the Attorney General;

(2) a full and complete record of such meeting is taken and deposited, together with any agreement resulting therefrom, with the Attorney General, who shall make it available for public inspection; and

(3) such other procedures as may be specified in such request or order are complied with.

EMERGENCY PURCHASES

SEC. 6. (a) The President may authorize any interstate pipeline or local distribution company served by an interstate pipeline (or class or category of such pipelines or companies) to contract, upon such terms and conditions as the President determines to be appropriate (including provisions respecting fair and equitable prices), for emergency supplies of natural gas for delivery before August 1, 1977—

(1) from any producer of natural gas (other than a producer who is affiliated with an interstate pipeline as determined by the President) if (A) such natural gas is not produced from the Outer Continental Shelf and (B) the sale or transportation of such gas was not, immediately before the date on which such contract was entered into, certificated under the Natural Gas Act, or

(2) from any intrastate pipeline, local distribution company, or other person (other than an interstate pipeline or a producer of natural gas).

(b)(1) The provisions of the Natural Gas Act shall not apply—

(A) to any sale of natural gas to an interstate pipeline or local distribution company under the authority of subsection (a) or to any transportation in connection with any such sale if such transportation would not otherwise be subject to such Act; or

(B) to any natural gas company (within the meaning of the Natural Gas Act) solely by reason of any such sale or transportation.

(2) In exercising its authority under the Natural Gas Act, the Federal Power Commission shall not disallow, in whole or in part, recovery by any interstate pipeline, through the rates and charges made, demanded, or received by such pipeline, the amounts actually paid by it for natural gas purchased pursuant to subsection (a).

(c)(1) The President may, by order, require any pipeline to transport such natural gas, and to construct and operate such facilities for transportation of natural gas, as may be necessary to carry out contracts authorized under subsection (a). No such order shall require any pipeline to transport any natural gas in excess of such pipeline's available capacity.

(2) Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of State law.

(d) As used in this section, the term "Outer Continental Shelf" has the same meaning as such term has under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

PURCHASED GAS ADJUSTMENT CLAUSES

SEC. 7. In the case of any interstate pipeline receiving compensation under section 4 with respect to deliveries ordered pursuant to such section, such compensation shall be reflected as a reduction in the cost of purchased gas for purposes of any purchased gas adjustment clause applicable to such pipeline. In the case of any interstate pipeline paying compensation with respect to deliveries or contracts for supplies of natural gas under section 4 or section 6, such compensation shall be reflected as an increase in the cost of purchased gas for such purpose.

RELATIONSHIP TO NATURAL GAS ACT

SEC. 8. Except as expressly provided in this Act, nothing contained in this Act shall be interpreted to change, modify, or otherwise affect rules, regulations, or other regulatory requirements or procedures of the Federal Power Commission pursuant to the provisions of the Natural Gas Act.

EFFECT ON CERTAIN CONTRACTUAL OBLIGATIONS

SEC. 9. (a) There shall be available as a defense to any action brought for breach of contract under Federal or State law arising out of any act or omission that such act was taken or that such omission occurred for purposes of complying with any order issued under section 4(a).

(b) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to such natural gas if an order under section 4(a) or any authorization under section 6(a) applies to the delivery, transportation, or contract for supplies of such natural gas.

(c) The amounts and prices of any natural gas purchases pursuant to an order under section 4(a) or an authorization under section 6(a) shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 10. (a) Subchapter II of chapter 5 of title 5 of the United States Code (other than sections 554, 556, and 557 thereof) shall apply to orders and other actions under this Act.

(b) Except with respect to enforcement of orders or subpoenas under section 4(e), the Temporary Emergency Court of Appeals shall have exclusive original jurisdiction to review any order issued, or other action taken, under this Act.

(c) Prior to a final judgment, no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued, or action taken, by the President under this Act.

ENFORCEMENT

SEC. 11. (a) Any person who violates an order or supplemental order issued under section 4 or an order under section 6(c) shall be subject to a civil penalty of not more than \$25,000 for each violation of such order. Each day of violation shall constitute a separate offense.

(b) Any person who willfully violates an order or supplemental order issued under section 4 or an order under section 6(c) shall be fined not more than \$50,000 for each violation of such order. Each day of violation shall constitute a separate violation.

(c) Whenever it appears to the President that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any order issued under section 4(a), any supplemental order issued under section 4(f), or any order under section 6(c), the President may request the Attorney General to bring a civil action to enjoin such acts or practices and, upon showing, a temporary restraining order or preliminary or permanent injunction shall be granted without bond. In any such action, the court may also issue mandatory injunctions commanding any person to comply with any such order or supplemental order.

REPORTING

SEC. 12. (a) In issuing any order under section 4(a) or granting any authorization under section 6, the President shall require that the prices and volumes of natural gas delivered, transported, or contracted for pursuant to such order or authorization shall be reported to him on a weekly basis and such reports shall be made available to the Congress.

(b) The President shall report to Congress not later than October 1, 1977, respecting his actions under this Act.

DELEGATION OF AUTHORITIES

SEC. 13. The President may delegate all or any portion of the authority granted to him under this Act to such executive agencies (within the meaning of 5 U.S.C. 105) or officers of the United States as he determines appropriate, and may authorize such redelegation as may be appropriate. Except with respect to section 552 of title 5 of the United States Code, any officer or executive agency of the United States to which authority is delegated or redelegated under this Act shall be subject only to such procedural requirements respecting the exercise of such authority as the President would be subject to if such authority were not so delegated.

Mr. DINGELL. Our first witness this morning will be Dr. James R. Schlesinger. The Chair notes that we are particularly pleased to have Dr. Schlesinger present with us this morning and to observe that he appears here in a rather extraordinary capacity, one which is not the usual practice of Congress or the Executive. He appears in lieu of the Administrator of the FEA even though he serves as a Presidential adviser.

After we have completed the testimony of Dr. Schlesinger, we will hear from Chairman Dunham of the Federal Power Commission, and the other witnesses, on the matter before us.

Do any of my colleagues have any comments to make at this time? Then, the Chair is very pleased to welcome and to recognize my good friend and distinguished public servant, Dr. James Schlesinger.

STATEMENT OF JAMES R. SCHLESINGER, PH. D., ASSISTANT TO THE PRESIDENT

Mr. SCHLESINGER. Thank you very much, Mr. Chairman, for those generous observations.

Mr. Chairman and members of the subcommittee, I am pleased to be here today to urge rapid passage of the President's Emergency Natural Gas Act of 1977. We are most gratified at your quick action in scheduling this hearing, Mr. Chairman, and I am pleased that both the President and the Congress share a common sense of urgency in dealing with the present emergency in natural gas supplies.

We are all painfully aware of the seriousness of the imbalance between supply and demand in the natural gas market today. The legislation the President has submitted is basically a temporary safety net. It is the minimum temporary authority needed to maintain the flow of natural gas into homes and to maintain other essential services. No temporary bill will solve our long-term energy problems; but neither should our long-term problems prevent us from responding to this emergency in a responsible and prudent manner.

This bill will not solve the present shortage. But it is of unquestionable value, as the President has stated, in easing the worst impacts of this shortage by precluding American homes from a cutoff of their natural gas supplies.

The industrial unemployment problem we face is also extremely serious, and may worsen if abnormally cold weather continues. This bill cannot solve that unemployment problem; however, immediate conservation actions can make a substantial impact. This is why the President has urged all Americans to turn their thermostats to 65° in the daytime, and lower at night. If home temperatures were held at 65° instead of 70°, we would save about half of the shortfall of gas expected between this winter and last winter, according to a recent FEA estimate.

These are dramatic savings. I can only emphasize again the need for every American physically able to do so to sacrifice a small measure of comfort to help save a large number of jobs in the coming weeks.

Even with this type of energy frugality, however, more will likely be needed. The temporary legislation we have proposed must be put in place now. Because of the weather-sensitive nature of this supply situation, all of this emergency authority may not ultimately be used, or additional authority may be needed. However, this legislation is designed to meet present and future needs through the next few months, as we can best foresee those needs now.

There are two basic provisions in this legislation.

First, it authorizes the President to reallocate natural gas among interstate pipeline systems to assure that essential supplies to households and public health and safety institutions are maintained. This authority would expire on April 30, 1977.

This allocation authority can be triggered by information about shortages provided to the President by a State Governor, or brought to his attention by other sources. Pipelines and distribution companies which lose gas by allocation will be reimbursed, either in kind or at an agreed price, by the pipeline or distribution companies which

receive allocated gas. If a price is not agreed upon, the President is authorized to decide compensation based on his determination of the reasonable replacement cost of the gas, plus a fee of not more than 5 percent. In addition, intrastate pipelines used on an emergency basis to transport natural gas between interstate pipelines will not become subject to Natural Gas Act jurisdiction.

The second major provision of this bill permits the President to authorize emergency sales of intrastate natural gas to the interstate market through July 31, 1977, at prices that are fair and equitable.

The administration believes these provisions are the minimum needed at this time.

We cannot depend on a change in the winter weather to bring us through this period. During November and December, weather conditions were over 20 percent colder than normal throughout the Nation. And the National Meteorological Center has predicted that there will be no immediate break in weather conditions. For the past several winters, we have lived with the assumption that mild conditions would enable us to make do with already tight natural gas supplies. This winter, we have learned that this assumption is no longer valid.

Colder than normal weather conditions have increased the residential and commercial space heating requirements for natural gas. Many natural gas systems, as a result, have already depleted the storage fields from which they must draw to meet essential human needs if the cold weather persists. These shortages have affected pipelines unevenly, but those in the worst situation may not be able to maintain essential services to households and public health and safety institutions unless they are able to obtain supplies from other pipelines.

Most major interstate pipelines servicing the East, Midwest, and South has less than half their usable working gas remaining in storage by mid-January. In many cases, the amount of storage on January 15 was less than half of what it was on the same date last winter. We are, and have been, using the gas that we expected to use in February and March.

As of yesterday, six major interstate pipelines are curtailing into priority one of their curtailment plans. Fortunately, none of their distributors has yet had to cut off supplies to priority one users. Another 12 are curtailing gas allocated for large commercial and essential industrial uses needed for plant protection and sustained employment. Yet, while these dislocations occur, other major pipelines—particularly in the West and upper Midwest—can still serve all their customers, including industrial customers who have alternative fuel supplies readily available.

We face a situation of increasing shortages for some pipelines, and relative plenty for others. And while this happens, homes, small commercial facilities, and hospitals that cannot convert to alternative fuels may be in danger of losing the natural gas they need to function.

The natural gas pipelines and the Federal Power Commission are attempting to cope with this emergency, but both agree that existing laws may be inadequate to prevent further dislocations in February. The Federal Government lacks clear and effective authority to allocate supplies needed to meet these needs. In addition, surplus gas

may be available to the intrastate market that would not flow into interstate commerce under existing law.

This bill is designed to assure that American homes do not go cold while natural gas continues to be used for lower priority uses. We believe this must be our first objective, and the allocation authority in this legislation will help meet this objective.

In addition, however, we face serious economic hardships as a result of the natural gas supply shortage. Thousands of plants are already closed as a direct result of natural gas curtailments, affecting hundreds of thousands of employees.

The allocation provisions of this bill will not affect these economic hardships. But two actions may. First, the emergency sales provisions of this bill will hopefully enlarge the supply of gas available for all interstate systems, thereby offering some limited potential for increasing supply to industry. But second, and more importantly, the type of immediate conservation measures in the home which I stressed earlier could save jobs for many Americans.

No one knows what the supply situation will be a week or a month from now. But we do know that as a Government, we must exercise every prudent alternative available to us to insure that we minimize disruptions and suffering. The administration believes that this legislation is the simplest, most temporary and most expeditious means of responding to this crisis. We know that you share our concern, just as you have generously shared your cooperation and insights during the drafting of this legislation.

The administration urges the swiftest possible action, and on behalf of the President, I would again like to thank you for the speed with which you have taken up this pressing matter.

Thank you very much.

Mr. DINGELL. Doctor, the committee thanks you for your testimony and your helpful statement. For the record, will you identify those with you? The chair has already welcomed Chairman Dunham, but your associates on your right.

Mr. SCHLESINGER. This is Mr. David Freeman and Mr. Fred Hitz.

Mr. DINGELL. Gentlemen, we welcome you.

Doctor, I assume that is the appendix you wish to have inserted following your statement.

Mr. SCHLESINGER. Yes, sir.

Mr. DINGELL. Without objection, that will be done.

[The appendix to Mr. Schlesinger's statement follows:]

APPENDIX

CURRENT SITUATION AND ACTIONS TAKEN UNDER EXISTING AUTHORITY

Last November, when the natural gas curtailments situation was addressed by this Subcommittee, the testimony by the Federal Power Commission and the Federal Energy Administration suggested that under normal weather conditions, interstate pipeline curtailments would be about 340-420 Bcf, or about 30 percent, greater than they were last winter. But it was predicted that there would also be adequate supplies of alternate fuels to deal with such curtailments which were not expected to reach residential and small commercial users.

As everyone knows by now, this has not been a normal winter. For November and December, the weather conditions nationwide were over 20 percent colder than normal. Certain parts of the country have had the coldest winter in memory.

For instance, the Southeastern section of the country has experienced sustained conditions of between 40 and 50 percent colder-than-normal weather. The Na-

tional Meteorological Center has predicted that there will be no break in weather conditions through January 31, with temperatures in the East and Central regions of the country still ranging from 8 degrees to 21 degrees colder than normal. Colder-than-normal weather conditions have increased the residential and commercial space heating requirements for natural gas, causing more rapid drawdowns from storage and/or greater curtailments by both interstate pipelines and distribution companies than were anticipated last November.

Even if this had been a normal winter, however, gas would not have been either abundant or equitably distributed throughout the country. Projections last fall were that curtailments on the major interstate pipelines would range from a low of 0 percent to a high of 54 percent of their firm contractual requirements. Five of the 30 largest pipelines accounted for a full 57 percent of the national total of projected curtailments.

The unexpectedly cold weather experienced this winter has exacerbated the problem of maldistribution and has led to the curtailment of more high priority customers than was anticipated. The current situation, according to the latest information available to the FPC and FEA, can be summarized as follows:

Curtailments.—On January 25, 1977, four major interstate pipelines were curtailing Priority 1 load—that is, residential and small commercial customers. Another sixteen were curtailing gas allocated for large commercial and essential industrial uses necessary for plant protection and sustained employment, the FPC's Priority 2. At the same time, several other major pipelines, mostly in the West and upper Midwest, were still in a situation where they could serve almost all their customers, including many industrial customers that had alternative fuel supplies readily available.

Storage.—The interstate pipelines serving areas where the weather conditions have been most severe have been forced to draw down storage at alarming rates. According to information filed with the FPC, a major pipeline serving the Southeast had only about 24 percent of its usable gas storage remaining on January 15, 1977. Most other major interstate pipelines serving the East, Midwest and Southern areas showed less than half of their usable working gas remaining in storage by the middle of January. In many cases, the amount of storage remaining on January 15 was less than half what it was on the same date last winter.

Employment and Other Effects.—FPC surveys indicate that, as of two days ago, there had been about 5,400 plant closings directly attributable to natural gas curtailments, affecting about 450,000 employees. Most of these occurred along the Southern pipeline in the Southeast and in Ohio and Tennessee. About 40,000 children are now unable to attend school in the Southeast, and Governor Shapp on Wednesday also ordered all of the public schools in Pennsylvania closed through at least next Monday affecting another 2,600,000 school children in that state. Schools have also been ordered closed in Ohio and elsewhere.

Alternate Fuels.—Increased natural gas curtailments have led to increased demand for alternate fuels. The drawdown of stocks of propane and heating oil, the fuels most directly interchangeable with natural gas, has been substantial through December and the first part of January in both the East and Midwestern sections of the United States. Although supplies still appear to be adequate to meet the increased demand, continuing spot shortages have occurred as a result of distribution problems. For example, propane is abundant in the Gulf Coast, where most of it is produced and stored, but inventories at terminals on the East Coast are at minimum working levels because existing propane distribution systems are not adequate to meet the unusual demand. Similarly, some spot shortages of heating oil, and particularly kerosene, have developed in some of the Northern Tier states because distribution systems to transport it from other regions either do not exist or have been rendered inoperative by the weather.

The government has not been unresponsive to these problems. As many of you know, since President Carter took office last week, my staff and that of the Federal Energy Administration have been working to try to cope with the emergency. The following actions have been taken—

For example, the Federal Energy Administration, at the direction of the President, has taken certain actions to help alleviate the situation with regard to alternate fuels, over many of which it has allocation and price control authority. Those actions include:

Issuing emergency rules allowing it to increase the volumes of propane that can be allocated away from non-essential industrial uses and to gas utilities that need it to supplement their natural gas supplies.

Issuing an emergency rule and orders requiring certain refiners in the Northern tier States to reduce their output of kerosene-based jet fuel, which is now in abun-

dant supply, to produce more No. 1 heating oil, or kerosene, which as I noted is in short supply in some areas.

Proposing rules to allow it to order refiners to produce more of other refined products, such as propane and No. 2 heating oil, if further shortages of these products develop.

Proposing a rule to give temporary entitlements relief for imported heating oil, which, if adopted, may increase the supply of heating oil available to the Northeast and stabilize rising fuel oil prices.

Coordinating and improving the collection of information to keep on top of shortages as they develop. A week ago we knew little more than what we read in the newspaper. Now the FEA is pulling together all current information within the government on both natural gas and alternate fuels and providing that information to me in a daily situation report.

Manning a communications network involving FEA's regional offices, the state energy offices in the impacted areas and area fuel suppliers, so that decision makers are alerted to potential problems and government personnel can help fuel users to line up supplies.

Also, at our urging, the ICC last Friday issued orders that will allow intrastate tank trucks to move in interstate commerce during the period of the emergency and will require railroads to give priority treatment to fuel shipments. These actions should help improve significantly the distribution of propane.

Finally, and most important, the President has personally appealed to the American people to conserve natural gas and alternative fuels as much as possible by dialing down their thermostats to 65°. He set the proper example by ordering such action in all government buildings as of last weekend. Many Governors and other State and local officials have reinforced that appeal. If the people will do it, and we are hopeful that they will, it will be possible to reduce the dimensions of the problem by about half. We will make every effort to continue to get across the message that conservation today will help prevent cold homes and idle factories tomorrow.

Mr. DINGELL. The Chair observes that we are proceeding at good speed. We will try to recognize our colleagues for questions at this time. The Chair hopes that questions will be in order that we may process the legislation expeditiously.

The Chair recognizes the gentleman from Colorado, Mr. Wirth.

Mr. WIRTH. Thank you, Mr. Chairman, and thank, you, Dr. Schlesinger. As one member of the ad hoc subcommittee, I support this and will do all I can to move this along. I was hoping you would be able to put this proposal in some context relating to, first, long-term natural gas strategies that are being considered by the administration; and, second, conservation.

In your statement, you made very welcome reference to the need for conservation, something that a number of us on this subcommittee have been pushing for a long time. My question would be related to how this proposal may fit with a broader strategy being considered or, if that is not yet in line, what kind of time-frame you may have for putting together a proposal on long-term natural gas strategies and a broad conservation package?

Mr. SCHLESINGER. Mr. Wirth the bill has been drawn with great care to thread its way among various points of view on the Hill and in the country. It carefully achieves neutrality with regard to intrastate versus interstate issues.

It achieves neutrality, we hope, with regard to sectional interests. It avoids the question of deregulation or regulation which has, as you well know, provoked considerable controversy.

Our purpose here is to get the legislation quickly so that we are able to keep homes warm and, therefore, we have avoided the longer-term issues which must be addressed and will be addressed in the

course of the development of the President's comprehensive energy plan which is due 90 days after he took office, that is, by April 20.

The issues that will be addressed, of course, include deregulation in the natural gas market. We recognize that over a period of years, we have become accustomed to using natural gas, which is in relatively short supply, as boiler fuel and that this is a wasteful use of a product which is more appropriately used for other purposes.

Those are the kinds of considerations that will be involved in longer-term policy, but I would hesitate to put that policy in firm context today. We want to generate immediate action, not generate immediate debate.

On the conservation side, we have no alternative but to move swiftly toward very vigorous conservation efforts. We are beginning to run shy on oil and gas. We are clearly doing so domestically. The rate of consumption of gas and oil puts us in immediate jeopardy with regard to dependence on foreign sources of supply.

We are importing about 10 million barrels a day during this cold spell. This puts us in a position of increased dependence, rather than reduced dependence, on foreign sources of supply.

For the short-run and long-run, we have no alternative but to get serious as a Nation with regard to conservation. We have had much discussion of conservation but we must take firm and prompt action in that regard.

Mr. WIRTH. Thank you, Mr. Chairman. I am glad that we have 90 days to gird our loins for the debate over natural gas. Let me assure you, Dr. Schlesinger, that there are a great majority of members of this subcommittee who are very concerned about energy conservation and will be supportive of a major conservation package.

Mr. SCHLESINGER. Thank you very much.

Mr. DINGELL. The Chair recognizes the gentleman from Ohio, Mr. Brown.

Mr. BROWN. Thank you, Mr. Chairman. Mr. Schlesinger, in January of 1975, in the then President's omnibus energy bill, there is a proposal that embraced the deregulation of natural gas. The Congress failed to mark up that proposal. In November 1975, 180 day standby emergency purchases, very similar to the one now being proposed, as I recall, because that bill was introduced by members on my side of this committee, were also proposed.

Although Congress did have hearings and markup on that, we failed to vote on it. In December 1976, a letter from Mr. Zarb, then the Administrator of the Federal Energy Administration, was sent to the Speaker, but I think it was not answered, urging the 180-day legislation and some action on deregulation of natural gas.

Your testimony says that for the past several winters, we have lived with the assumption that mild conditions would enable us to make do with already tight natural gas supplies. The tight natural gas supplies began in 1970, the first year that the Federal Power Commission was obliged to reduce, or to permit, the reduction of delivery by major companies, and that has gotten worse each year since then. At what point do you think we should have acted in the past in order to have prevented this problem now?

Mr. SCHLESINGER. I think that the problem of natural gas has been dramatically exacerbated by the cold weather of this year, which was far colder than could have been predicted. That has merely

intensified a chronic situation which has been growing for at least the last 5 or 6 years and was forecast by some because of the very tight control on natural gas prices for the interstate market that prevailed earlier.

Mr. BROWN. I think the President agrees with you because a letter which has been widely circulated is quoted as saying this: "First, I will work with the Congress as the Ford administration has been unable to do"—I think that is fairly obvious from the comment I just made.

The Congress was unable to work with the Ford administration because they were recommending what you are now recommending 2 years ago—

To deregulate new natural gas, decontrol of producers' prices for new natural gas would provide an incentive for new exploration and would help our Nation's oil and gas operators attract needed capital. Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing States which rely on interstate supplies.

While encouraging new production, this proposal will protect the consumer against sudden sharp increases in the average price of natural gas.

That letter was written to Governor Boren on the 19th of October 1976. When do you think the President will present this proposal formally to us here in the Congress so that we can act on it?

Mr. SCHLESINGER. Congressman Brown, the legislation includes allocation authority which is novel, but is required under these circumstances. The sales feature is not novel. It is for a longer period of time, of course, than FPC authorized sales have gone on in the past.

With regard to the regulation-deregulation issue, we will have our proposals to the Hill by 90 days after the President took office. Immediate deregulation will have no effect on the present crisis.

Mr. BROWN. Would it have an effect on a crisis that might occur next year if we have a normal winter, rather than an excessively cold winter?

Mr. SCHLESINGER. It is conceivable that it might affect the allocation of gas between intrastate and interstate pipelines but it is not a long enough period to develop new sources of supply, new pools, new inventories.

So that the immediate effect would be to draw gas that might otherwise not come out of existing pools or might bring about a reallocation intrastate-interstate.

Mr. BROWN. Finally, one last question in the interest of leaving time for my colleagues to ask questions. In my part of the country, a part of the country in which you have an interest, we now have both schools and industries closed down tight. Should this legislation have in it a provision which would equalize the devastating economic impact among various parts of the country, of having all workers out of jobs in a particular area, all schools closed in a particular area, which, of course, has certain implications on tax costs for those people who live in that area, so that one area of the country does not have industries and schools operating full tilt while another area of the country does not have schools and industries operating at all?

The following comment is that if our area is closed down tight, it won't be very long before some of those other industries are impacted

because we make some things that they need. Could you respond to that?

Mr. SCHLESINGER. Yes, sir. You have addressed one of the difficult and perplexing aspects of this problem. This legislation is drawn to do something that we know we can do and for immediate passage by the Congress. If we were to attempt to reallocate gas supplies for industry, the result, I believe, would be protracted debate on the Hill.

We also are not in a good position to allocate gas supplies to industry. The FPC deals only with gas pipelines in terms of priority users. We are dealing with gas pipelines. We are not dealing with end-use users. Consequently, our ability to allocate is minimal and it would take some time before such a system could be set up.

If the Congress wishes to add such a provision, we would, of course accept it. But we cannot endorse it at this time.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes the gentleman from Indiana, Mr. Sharp.

Mr. SHARP. Thank you, Mr. Chairman.

My original question was similar to that of Mr. Brown as to why we could not expand the allocation authority so that we could help to do something about the unemployment problem, assuming that in some parts of the country there are uses of gas of very low priority where alternate fuels could be employed.

If I understand correctly, there is both the political difficulty of getting a decision out of Congress and the practical difficulty of setting up a system to actually make a whole series of decisions regarding choices between end users.

I might tell you that it is of deep concern to me and I think we ought to do everything we can to find a way in which we could allocate to industries who need gas to operate but I can understand that might not be something that could be instituted in 1 week or 2 days and that may be the situation that we are faced with.

Mr. SCHLESINGER. You will have a chance to ask the Chairman of the FPC shortly as to his existing capabilities.

Mr. SHARP. You hold out the second possibility both through conservation, which is of critical importance, and also through emergency purchases of gas, that we might be able to bring some gas into those areas where there is unemployment. I wonder if you could give us any indication as to the expectation that gas would be available so that it could be purchased; and, second, do I understand from the legislation that the conditions of those purchases are yet to be set by the President?

In other words, we are essentially granting him the authority to set the conditions under which that system of emergency purchases will be made.

Mr. SCHLESINGER. No action that we can take will do other than to mitigate the supply situation. The present situation is almost entirely dependent upon the temperature. The FPC, right now, has 60-day sales in process, so that the augmentation by authorizing until July 31, is not immediately obvious.

If the American public will cooperate in conservation efforts, we can indeed mitigate the effect on industrial employment. This, may I say in passing, would require the cooperation of certain municipalities, cities, that presently have statutes requiring the maintenance of 70° temperature. I would hope that those could be waived in this period.

The President will not set all the conditions, we believe, in advance of sale. We want to test this market. We want to elicit a flow of gas from the intrastate market and if all the conditions are set in advance, they may inhibit that flow of gas.

Mr. SHARP. So, you anticipate, in essence, a free market on any extra gas that might be purchased, but the gas that is flowing now in the interstate market would, of course, remain under control.

Mr. SCHLESINGER. No, I think we would set boundaries to the rise in price, but it cannot be specified in advance until we see how the market reacts. It would not be a completely free market. That is the purpose of fair and equitable powers for the President.

Mr. SHARP. One further followup on the natural gas. If there is any evidence—and this is perhaps a question for the Chairman of the FPC—that there are, in fact, intrastate producers who are unwilling to cooperate on a 60-day emergency sale because of fear there may not be—if you advance a sale one more time for 60 days and what-not—there might not be a legitimate way for the FPC to function that way and, therefore, might be caught in a regulatory web? Is there any evidence we may not be able to get gas through the 60-day procedure and, therefore, there might be some—

Mr. SCHLESINGER. I think this provides a greater time period for planning purposes in order to move this gas.

It is the allocation authority that provides the relief for the interstate pipelines who are unable to enter into a voluntary sharing arrangement because of fear of suits from customers for breach of contract or from fear of possible antitrust prosecution.

It is that feature, I think, that helps in the sharing arrangement. On the intrastate side, the principal new feature is the provision of intrastate passage of interstate gas without change in jurisdiction.

Mr. SHARP. Thank you, Mr. Chairman.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes the gentleman from North Carolina, Mr. Broyhill.

Mr. BROYHILL. Thank you, Mr. Chairman.

I welcome Dr. Schlesinger to the committee. Much like these other members, I am somewhat concerned that perhaps this bill does not go far enough. I understand you fairly state that the purpose of this bill is to provide some minimum temporary authority to maintain the flow of natural gas to residences and to small commercial users.

In North Carolina, in the market there, it is unlike many other States, most of the gas being consumed there is for industrial and commercial purposes, in other words, to provide jobs.

In North Carolina, the distributing companies and the pipelines there have cut off all firm industrial and large commercial users for some time. We have had no gas flowing from the distributing companies and the pipelines controlled by the pipeline and distributing companies going for that purpose for quite some time.

In fact, the utilities commission has issued an order requesting a 35-percent reduction in usage by small commercial customers just recently, so, we do have a bad situation there.

I would personally favor some authority or some amendments to give you authority to allocate gas for the maintenance of jobs because this is important in this time when we are trying to come up with ways in our Budget Committee for stimulus to the economy.

I wonder if you have any comments on that? I know I am repeating here with some of the questions that have been asked already, but I just want to underscore what some of us do feel is of prime importance.

Mr. SCHLESINGER. It is of great importance, Congressman Broyhill. We are not resisting such authority. We are not asking for it, however, because we need immediate passage of this bill. Within a few weeks or even a few days, we are likely to find homes in the United States cut off from gas. We have used the gas, as I indicated earlier, which we had been planning to use in February and March. So, we need immediate action.

We have been concerned that a request for broader authority, which will raise the issue of taking away from industry in State X to give to State Y might lead to protracted discussion in the Congress and, therefore, we have not asked for any such authority.

Mr. BROYHILL. Can I ask your legal interpretation of how far this act goes? I asked the counsel of the committee yesterday. They indicated that it was not their legal interpretation that this bill would cover or the intent of the bill was not to cover so-called 533 gas; 533 gas is that gas which has been purchased by consumers for their own use and, of course, that kind of gas is not subject to the Federal Power Act and it is usually referred to as 533 gas because it is subject to FPC order No. 533.

In other words, our committee counsel indicated it was not the intent of this bill to give you authority or to expose that gas to reallocation.

Mr. SCHLESINGER. That is correct.

Mr. BROYHILL. I wanted to be sure that that was the intent.

Mr. SCHLESINGER. That is correct, Congressman Broyhill.

Mr. BROYHILL. I have one other question, and this may be somewhat more controversial.

I have been concerned that perhaps there are not enough guidelines in this bill to give some congressional intent and direction as to how you would carry out this allocation authority. It had been my purpose to offer an amendment that would tend to spell this out.

Briefly, it would go like this: That your order, first, would be limited to the natural gas which would be expected to be burned as boiler fuel in those pipelines, interstate pipelines, or distributing companies.

If no more fuel gas is available on any of these interstate pipelines, then the President could order the diversion of gas that would be going for priority No. 3 and then if all gas in priority No. 3 has been diverted, then the President can order the diversion of priority gas No. 2.

I wonder if you would give your comment as to a plan to this kind for the orderly diversion of gas that might be available?

Mr. SCHLESINGER. It will be the judgment of the Congress with regard to the specific powers given to the President. We intend to follow such orderly procedures as you have indicated in diverting gas from lower priority users and those pipelines still serving such uses where the supplies are relatively abundant to those that are beginning to cut in or threaten to cut into priority 1 users.

It would be my immediate reaction, since we are intending to follow such procedures, that if the Congress includes in the law those pro-

cedures in a rigorous way that it might tie our hands in circumstances that it would not be the desire of the Congress to do.

Mr. BROYHILL. Would you say that it is your intent to divert that gas that would ordinarily be burned as boiler fuel as your first order of diversion?

Mr. SCHLESINGER. That would seem to be the appropriate thing to do. I would put it in a more general way, that throughout the East, we are down to priority two users at most, overall. In some places, in the West, priorities three, four, five and even higher, are being observed by interstate pipelines.

So, quite naturally, the conclusion to be drawn is one that we need not spell out.

Mr. BROYHILL. Thank you very much.

Mr. SHARP [presiding]. The chair recognizes the gentleman from Texas, Mr. Krueger, for 5 minutes.

Mr. KRUEGER. Thank you, Mr. Chairman.

Dr. Schlesinger, we are very pleased to have you here today. It is, I suppose, always difficult to look back to prior prophesies. A year ago some of us felt that there was a natural gas crisis in the making. We were told at that time by one member of this subcommittee, and I quote, "The fact is that the gas shortage has been overstated dramatically by deregulation advocates." Again I quote from only a year ago: "The emergency situation so touted by the gas industry has evaporated and there seems to be no reason for emergency action. The emergency of this matter has been overstated in an attempt to frighten the Congress in an immediate precipitous action."

I am quoting from two members of the subcommittee whom I shall not name. I wonder, are you trying to frighten us into immediate and precipitous action, Dr. Schlesinger, or is there an emergency situation?

Mr. SCHLESINGER. I am trying to urge you into immediate, prudent, and responsible action. Given the circumstances, if we fail to take action that would be a precipitous decision. I am not attempting to frighten you. I think the situation speaks for itself. The headlines are in the local papers—and we have not been much affected—and throughout the East, in Ohio, Tennessee, Georgia, Pennsylvania, West Virginia. I do not need to augment those comments.

I think that the full seriousness of the situation has not as yet fully sunk in.

Mr. KRUEGER. Thank you, Dr. Schlesinger, for that confirmation devoutly to be wished. Let me address myself first to some of the news reports and in fact to some of the implications of the testimony. I think there are some people who feel that as a result of passage of this legislation we might put more people back to work.

Now perhaps I misunderstand the legislation, but it is my reading of it that this legislation will not get more gas to industry but rather it will do the opposite. It will take gas from industry because there are such shortages in the residential areas that those priorities must be met and that this legislation, if passed, will not get any gas whatever to industries to keep them open. Is that correct?

Mr. SCHLESINGER. That depends in part on the temperature. The sales feature probably will increase the flow of gas to industries in the interstate system. It may not do so rapidly but it will increase somewhat. Consequently that must be offset against the diversion of

industrial gas to residential users which will depend upon the temperature.

But your general characterization of the bill is correct. We are attempting to prevent American homes from going cold. To save jobs we must moderate temperatures without going to the point that homes are cut off from natural gas.

Mr. KRUEGER. In redirecting some of the gas from one current user to another, I do not find in the bill any section that would grant compensation to those users from whom the gas is taken and who might then have to substitute with much more expensive fuels.

I do see in the legislation something about compensating for the replacement cost of gas. If, for example, one industry or small business is shut off from its gas so that this gas can be directed to someone else, and if that person should, for example, need to replace it with No. 2 residual fuel oil or some other more expensive source of energy, are there any plans to deal with the recompense to the person who loses the gas and must give it up?

I understand there is something for the pipelines themselves but I am talking about the actual users of the gas. Is there any plan in the administration to try to address the needs of these people who suddenly face much higher costs because the gas they would normally have received is instead going somewhere else?

Mr. SCHLESINGER. You are correct in your assessment. There is no such feature in this bill save your reference to small commercial establishments that would be protected if they used less than 50 Mcf per day, as I recall it. This is the very nature of an allocation scheme. If we are allocating away from particular users because they are judged to be of lower priority, then we are limiting ourselves to that kind of allocation. If I may draw an analogy, if we were to deregulate the market we would not under those circumstances attempt to provide compensation for those who would then have to pay higher gas prices.

Mr. KRUEGER. I am not certain of the analogy but I think I understand the thrust.

I have one other question, Dr. Schlesinger, and that is I think this morning that I heard you refer to an allocation of intrastate gas but I find nothing in the bill that gives the President any power whatsoever to allocate intrastate gas. I should like to have that clarified.

Mr. SCHLESINGER. That is correct. I may have wandered over to "interstate" as "intrastate" in the reading of the testimony.

Mr. KRUEGER. Thank you, Mr. Chairman.

Mr. DINGELL. The time of the gentleman has expired. The Chair recognizes Mr. Devine for questions. He is an ex officio member of the ad hoc subcommittee.

Mr. DEVINE. Thank you, Mr. Chairman.

Dr. Schlesinger, I am very comfortable knowing that you are attached to the current administration to help us face this crisis. I guess it really does not do any good to say, "I told you so," and the chickens have really come home to roost.

You know some of our members and others that have been wringing their hands and gnashing their teeth are some of the same persons who opposed deregulation legislation. You know, last year, Dr. Schlesinger, the Senate enacted deregulation of natural gas. It came to the

House and ultimately on February 5, last year, the House defeated it by a vote of 205 to 201.

We all recognize the controversial nature. If that passed 11 months ago we would not find ourselves in the bind we do today. As you know, having Ohio connections, our Governor Jim Rhodes declared an emergency situation under the statute there and yesterday declared a crisis which is a step further, recognizing the critical problem.

I checked with the central Ohio area that I represent at 9:15 this morning and Columbia Gas just put out an urgent request for all commercial users to shut off by noon today. That relates to 68,000 businesses and industries in the central Ohio area.

We have a 56-county area where all the schools are shut down. We find ourselves in a situation that we are trying to address. I would like to assure you and Members of the other side of the aisle that there will be no obstructionism from those of us in the minority. We recognize the crisis. We will cooperate with the administration.

I think that this bill will emerge from this committee on Monday and will probably come up under suspension of the rules on Tuesday and will probably pass, but I don't believe it will solve the problem. I don't think it will give us 1 more cubic foot of natural gas.

Yesterday the majority leader, Mr. Wright of Texas, said this:

This is not intended as a long-range solution. It will not do anything to make for more natural gas being produced. All it would do would be to make it possible for us to use those limited supplies that we now have, to distribute them more efficiently and more equitably so as to see that no real suffering occurs.

Would you, Dr. Schlesinger, agree that this bill will not produce any more natural gas and will do nothing but reallocate the shortage?

Mr. SCHLESINGER. That is essentially correct. We are hoping that more natural gas will be elicited into the interstate market from the intrastate market, particularly if temperatures improve in the South, through the emergency sales provision.

We are dealing basically with a fixed supply of gas. We are attempting to alleviate the problem and this will not solve it.

Mr. DEVINE. I understand that Columbia can arrange a purchase of about 600 million to 700 million cubic feet of liquefied natural gas from Alaska but the domestic tankers to transport the gas as required under the Jones Act are not available, but if an exemption were made by the Secretary of the Treasury, that LNG could be transported on foreign vessels. Are you aware of this situation, and is action imminent in the Department of the Treasury or in the administration that will help in this situation?

Mr. SCHLESINGER. We are reviewing that situation, Congressman. We will come to a conclusion rapidly. I think your point is well taken.

Mr. DEVINE. Fine. One other thing, Dr. Schlesinger. I understand that the Columbia Gas system sought out through much effort and incentive additional natural gas through Canada and made a buy, and after they had the buy there has been some movement on the part of the Federal Power Commission to take away from Columbia at least a portion of that gas and reallocate it elsewhere. Are you aware of that particular situation?

Mr. SCHLESINGER. I am aware of that situation. It is a proceeding pending before the FPC. I am not sure that it would be appropriate for me to comment on that save to the extent that I am sure the FPC is attempting to balance the requirements of one pipeline as against

another pipeline and that Southern has been in dreadful shape, even worse than the pipelines in Ohio.

Mr. DEVINE. I understand you can't superimpose your judgment or make recommendations to the Federal Power Commission in this type of instance but I would think if that type of conduct does occur it will kill any incentive to seek out new sources, if it will be taken away.

Do you think the President under this legislation would have anything to do with the reallocation under those circumstances?

Mr. SCHLESINGER. What we are attempting to do is to remove gas from those areas where supplies are relatively abundant to those where supplies are relatively less abundant. It would be those with relatively less abundant supplies that would be seeking new gas.

Mr. DEVINE. Thank you.

Mr. DINGELL. The Chair recognizes the gentleman from Connecticut, Mr. Moffett.

Mr. MOFFETT. Thank you, Mr. Chairman.

There is certainly not enough time to ask all the questions we would like to ask. I hope we will have other opportunities informally or otherwise, Mr. Schlesinger. I know you will make that possible.

I have two sets of questions, one that stems more or less from my role as a national legislator and the other set which regards New England and Connecticut.

Without going into a lot of the national questions I might editorialize and say that the notion that those of us who have opposed deregulation have not embraced the importance of the crisis is incorrect. What we have seen as a crisis is the fact that the Government has had very little information. There has been no lack of money made by the major oil companies which control natural gas.

The FPC has allowed a 30-percent increase annually, an increase which should have provided plenty of incentive for production. It is obvious to anyone, both the proponents and opponents of deregulation, that the two-track system is really what is creating the problem.

We have to deal with that and we have a definite proposal to do that. In the meantime we want this plan to work but we have some questions about whether it will work. We admire your aggressiveness in defending it and hope that we will have a chance to help shape it by amendment or otherwise.

That leads me to the parochial question. Section 4(f)(2)(A) is the section that discusses the President's calculation of the amount of compensation where natural gas is taken away from a certain area. How do you read that section? It seems to me it can be read in one of two ways. I would like to think that it is being read in the following way, that if New England companies, for example, lose gas they will be compensated at the price that they would have to pay for replacement; in other words, synthetic, LNG, SNG. Does a strict interpretation of this section, "based upon reasonable replacement cost of such gas," mean of such gas or of replacement, synthetics?

Mr. SCHLESINGER. The emphasis is on the replacement.

Mr. MOFFETT. That is very good. I am glad to know that.

Now with regard to section 6(A) on page 9 of your bill, would it be helpful where we say, "The President may authorize any interstate pipeline or local distribution company," and so on, "to contract,

upon such terms and conditions as the President determines to be appropriate"—what if we said, "At reasonable prices, that is, the average price during a particular period, let us say December 1976, of new gas and that the President may increase that amount up to 30 percent?"

I am afraid, as you would guess, that the price will to to \$20 or \$25, for example. What is to prevent that?

Mr. SCHLESINGER. I think it is the intent of the legislation to avoid any precipitate rise in price. One can determine one's own estimate of reasonableness. We desire to have a little bit of flexibility here because until the market has been tested we do not know what flow of gas may be forth-coming at what prices.

Mr. ECKHARDT. Would the gentleman yield?

Mr. MOFFETT. I will be happy to yield to the gentleman from Texas.

Mr. ECKHARDT. On that point, as the language is now written it could conceivably result in a rollback and furthermore there is no anchor of price provided.

Now I am not saying, Mr. Secretary, that there should not be flexibility, as Mr. Moffett mentioned, say 30 percent flexibility, maybe more. But if we are to get any gas under section 6 we are going to have to have some degree of predictability as to price.

It would seem to me that it would be only reasonable to provide some anchor with a degree of flexibility in that area. Do you see anything wrong with that?

Mr. SCHLESINGER. It is not the intention, of course, to go on the downside although the legislation might be interpreted that way. We think that this general statement is adequate. If you would prefer to include an anchor, we could readily live with it. We would want to have that flexibility, however.

Mr. ECKHARDT. I thank the gentleman from Connecticut for yielding.

Mr. MOFFETT. Mr. Schlesinger, again a regional question. I think I can safely say our region wants to be helpful, we have asked for help enough times to know what it is like. If you divert gas away from areas without regard to the unemployment rate in that area aside from this present crisis, I think it would be unfortunate.

Is there anything that requires the President to take a look at the relative unemployment rate in a particular area before diverting gas away and attempting to divert gas from one area to another area that would have a lower rate of unemployment?

Mr. SCHLESINGER. There is no such requirement in the legislation but I think you will recognize a high correlation between gas deficit areas and unemployment so that—

Mr. MOFFETT. That is not necessarily true, is it, in the case of New England? We are not identified as a crisis area in this problem time but we have tremendously high unemployment. Do you see what I mean?

Mr. SCHLESINGER. Yes, indeed. I think that would certainly be taken into consideration and that certainly is the thrust of my remarks.

Mr. MOFFETT. Thank you very much.

Mr. DINGELL. The Chair recognizes the gentleman from California, a member of the ad hoc subcommittee.

Mr. MOORHEAD. Dr. Schlesinger, most of us that come from areas that are extremely dependent on natural gas, as we are in southern California, realize that if we don't have that everything stops, whereas many parts of the country are able to go on with other forms of fuel. So, when we consider this type of legislation we are most concerned that wherever possible you stimulate additional natural gas into the interstate system by additional moneys being available for the purchase of that gas and allowing higher prices to be paid. I would hope that you would do that where possible.

If gas would come into the interstate system by allowance of additional money through deregulation, it would be much less painful to many parts of the country, I am sure, probably to the consumers throughout the country. I would hope you would be planning on following that course of action.

Mr. SCHLESINGER. Yes, sir, we are planning to do so. That is the purpose of the sales provision and that is why we want to have some flexibility with regard to price, as I indicated in response to Congressman Moffett's query.

Mr. MOORHEAD. Many of the gas companies across America, realizing the problems that many portions of the country are having, are voluntarily transferring gas that they have under contract to other companies that are in the needy areas. They are doing it even now before this legislation is passed. I would certainly hope that in the allocations program those transfers would be taken into consideration, the voluntary capability of some of these companies to do the things that you want to do through legislation, without being forced to do it. They should not be additionally punished if they are willing voluntarily to do so.

Mr. SCHLESINGER. That is our intention. It may not even be necessary directly to allocate gas. What the allocation authority does is to provide the opportunity for voluntary sharing by the pipelines. We would certainly wish to encourage voluntarism among the pipelines as opposed to mandating movements of gas.

Mr. MOORHEAD. Dr. Schlesinger, if gas is taken from a given company or a given area during this extreme shortage, gas that perhaps is under contract, would, at some later date when there is more availability of gas, these same companies or these same areas receive back the quota that was taken from them?

Mr. SCHLESINGER. It is the intention to see that the replacement coast of the gas is provided to the company and 5 percent above that and of course it is intended that the gas indeed be replaced.

Mr. MOORHEAD. In setting up any program of allocation I assume that you would not only consider the cold in the area and the immediate emergency but you would consider the total overall need of a section of the country in the adoption of the program you do adopt so that it causes the least amount of disruption necessary?

Mr. SCHLESINGER. That is our intention, Congressman.

Mr. MOORHEAD. As I understand it, when you bring out your energy plan in the near future you would hope to have at least in that plan a method to avoid this kind of crisis for the future so that perhaps we can stimulate as much as possible by voluntary action the production of enough gas in our country to meet the needs for the future?

Mr. SCHLESINGER. We cannot offer complete assurance against acts of God, temperatures that are 20° below normal, but we should certainly be better hedged against such possibilities. We have become unduly dependent with more claimants against existing gas stocks in each year.

We must get the supply and demand for this product in normal years in much better relationship one to another. That will be the intent of such legislation.

Mr. MOORHEAD. I can assure you, Dr. Schlesinger, that most of us on this committee are most anxious to work for you and with you in defending an energy plan that will meet the future needs of our country and not just a bandaid at this time. We know you are placed in an unusual position. We do not want to work in this way in the future.

We do want our energy plan such that our country can be saved from this kind of crisis wherever possible. I hope that the President and you come up with a plan that will be far reaching and will take care of some of the needs that our previous President tried to get this committee to consider and we refused to accept.

Mr. SCHLESINGER. I think you will find the plan sufficiently far reaching for anybody's taste.

Mr. MOORHEAD. I yield to the gentleman from Louisiana.

Mr. MOORE. Under section 4(2)(1)(B)——

Mr. DINGELL. The Chair announces the time of the gentleman has expired. The Chair will permit the gentleman to finish his question.

Mr. MOORE. I thank the chairman.

Under the allocation section of the bill which requires intrastate pipelines to connect with interstate pipelines to reallocate, has there been a study done to show how many available intrastate pipelines there are and are they really needed? Is this power really needed? Cannot the interstate pipelines handle the reallocated gas without going into the intrastate pipeline system?

Mr. SCHLESINGER. The introduction of the intrastate pipelines into the capacity for serving the interstate system I think is an enormous convenience. Without such a provision we would be less able to move gas from the areas of availability to the areas of need.

The provision is directed to leave the status quo in a legal sense unaffected, not to affect any jurisdictions, but simply to have the ability to draw on those intrastate pipelines for transmission purposes during this emergency.

Mr. MOORE. If that pipeline is currently operating at full capacity delivering to the intrastate users this power would not affect that?

Mr. SCHLESINGER. That is correct; it would not be used.

Mr. MOORE. Thank you.

Mr. DINGELL. The time of the gentleman has expired. The Chair has one question. Has any decision been made, Dr. Schlesinger, with regard to delegation of authority by the President as to who will exercise these extraordinary powers and who will administer the statute?

Mr. SCHLESINGER. That decision has not yet been made by the President. We will wait until we receive, hopefully we receive a bill. I think one must recognize that the Federal Power Commission does have most of the assets in this regard and the best knowledge of the

gas lines and one obvious candidate for being delegated this responsibility sits to my left, the Chairman of the FPC.

Mr. DINGELL. The Chair thanks the gentleman.

The Chair will recognize now the distinguished Chairman of the Federal Power Commission. The Chair observes for the benefit of himself and for his colleagues that I am sure, Chairman Dunham, you will keep carefully in mind the problems that exist with regard to the *Pillsbury* decision. I want it to be very plain that it is neither the intent of the committee or of yourself to dictate the policies of a quasi-judicial character or in any fashion to transgress the *Pillsbury* decision. It is the full expectation of the Chair that you will conform yourself to the requirements that exist under that decision.

Mr. MOORE. Mr. Chairman, as a member of the full committee and not a member of this ad hoc committee, may I be given time to question Dr. Schlesinger further?

Mr. DINGELL. The Chair will try to see to it that all members receive time. We have craftily set a limitation on the amount of time to question all witnesses. The Chair will try to allow members of the full committee an opportunity to be heard and question.

At this particular time the Chair regrets to advise the gentleman that is not possible.

Mr. BROWN. Could I ask, to clarify the point, would it be possible for members of the full committee to submit questions or other members to submit questions through members of the subcommittee either for immediate questioning or in writing to the witnesses so that we can get a prompt response because some of the questions are legal questions that we would like to get answers to. Do you think that would be appropriate?

Mr. DINGELL. The suggestion of the gentleman from Ohio is an excellent one. He has mentioned this to the Chair. The Chair indicates that if any member has questions he desires to have answered that it will be the intention of the Chair to see to it that those questions are submitted to the Chair, that they will be submitted to Dr. Schlesinger and/or such other witnesses as may be appropriate.

I am sure we will receive the necessary cooperation in achieving responses for my colleagues.

The Chair wishes the gentleman from Louisiana to know it is not the intention of the Chair to deny members of this committee nor of the full committee a full opportunity to participate. We function under drastically curtailed time limits.

If the gentleman from Louisiana has a wish to have questions answered or any other member wishes that, they may submit those questions to the Chair and the Chair will see to it that that will be done.

Mr. MOORE. I thank the chairman. I will do so today.

Mr. DINGELL. Dr. Schlesinger, I failed to say we will excuse you at this time.

Mr. SCHLESINGER. Thank you very much, Mr. Chairman.

Mr. DINGELL. The Chair does indicate, Doctor, it is our intention to proceed most expeditiously toward consideration of this bill and to not allow procedures or other questions to delay the fair and adequate consideration of the matter before us.

Chairman Dunham, we note you have associates of yours from the Commission with you. I think it would be entirely proper if they were to join you at the table.

I notice that Commissioners Holloman, Watt, and Smith are here with you. Gentlemen, we are honored that you will be with us. If you will join your Chairman at the table, we will proceed to receive his testimony.

The Chair observes you have with you Mr. Drexel Journey who is counsel to the Commission. Mr. Journey, we welcome you this morning. We are thankful you are with us.

Before you begin, Mr. Chairman, I note that the reports to the committee are that the Commission has been exercising its powers in this matter in a most expeditious fashion, for which we commend you.

Mr. Chairman, you are recognized. Please proceed.

STATEMENT OF HON. RICHARD L. DUNHAM, CHAIRMAN, FEDERAL POWER COMMISSION, ACCOMPANIED BY COMMISSIONERS JAMES WATT, DON S. SMITH, AND JOHN H. HOLLOWMAN, AND DREXEL D. JOURNEY, GENERAL COUNSEL

Mr. DUNHAM. Thank you, Mr. Chairman. I am very mindful of your remarks and the limitations on time; therefore, I will confine myself to a few opening remarks, attempting to provide you with our analysis of the current situation.

I have with me many exhibits relating to basic information I will make available to the committee and staff at the conclusion of this hearing.

I also want to assure you, Mr. Chairman, that the Commission and staff of the Commission are available to you and your committees as you go forward with your deliberations during the next few days.

The first point that I would like to make at this juncture is that the Federal Power Commission strongly supports the President's bill. We feel that the provisions provided in that bill giving the executive authority are very vital and crucial authorities that will allow the President to deal with the current situation and there are authorities which are now not in any place within the executive or the Federal Power Commission.

It seems to me there are three basic components of the natural gas problem that we have today, and I would characterize them in the sense of time. We have an immediate problem, a day-by-day problem, a week-by-week problem, if you will, and I believe section IV relating to the emergency allocation addresses that problem; and, again, in my opinion, it is needed authority that the Federal Government must have.

The second category of time I would like to characterize here is preparing for next winter. In my opinion, section VI addresses this problem—this is the emergency purchases—and I believe that will help somewhat.

I want to point out to the committee that the problem of next winter is also an important problem that must be addressed immediately, in the spring and in the early summer. Again, section VI, in my opinion, assists in helping that situation.

The third category of time which has been discussed earlier with Dr. Schlesinger in his testimony is the long term. That is not addressed in this bill and must, of course, be considered, as he pointed out, in the context of a total energy program.

I now would like to give a few statements on this general situation that we have facing us today.

The general nature of the natural gas situation can best be seen from a few facts about the differences between this year and last:

From July 1, 1976, to January 23, 1977, most States east of the Rocky Mountains experienced much colder than normal weather. Heating degree days for that period ranged up to 30 or 40 percent more than normal for many Eastern and Midwestern States, and 50 to 70 percent greater for Southern States. Natural gas usage has been accordingly increased.

On January 15, 1976, major pipelines had 1,244 billion cubic feet of gas in storage, or 70 percent of what they began the winter with. On this January 15, they had only 994 billion cubic feet or 57 percent of this winter's beginning level. We estimate that up to 100 billion cubic feet additional may have been taken from storage by January 24.

Even more important than the national figures, though, are regional figures. Eastern pipelines had only 317 billion cubic feet left, or 42 percent of beginning levels, compared to 69 percent at the comparable time last year.

Southern pipelines were down to 37 percent versus 54 percent at this time last year.

As you know, most gas does not come from storage. The long-term trend of flowing supply has been steadily or slightly downward, about 3 percent, for this year. This has increased the importance of underground storage to meet peak demands; but as storage levels decline, the amount of stored gas that can be delivered in an hour or in a day declines, because the pressure in the underground reservoirs may decline.

Although the situation may differ from pipeline to pipeline, our reports indicate that many pipelines in the Eastern United States do not have the deliverability from storage they would have anticipated for this season of the year.

I want to mention one other fact relating to conservation. We estimate that because of the colder than normal winter to date, approximately 276 billion cubic feet have been expended as excess consumption.

If the people in this country follow the President's urging that temperatures be reduced in homes to 65°, we estimate that during the balance of this winter approximately 333 billion cubic feet could be saved to cover projected excess deficiencies if we do have a colder than normal winter for the balance of this season; and if not, of course, it would be savings that could be used for other purposes.

I mention these facts only to emphasize how extraordinarily significant the temperature sensitivity of the gas supply is, and how very important it is to the critical situation that we face on a day-by-day basis now and for the balance of the winter certainly.

That concludes my remarks, Mr. Chairman.

I am available, as are my colleagues on the Commission, to answer any questions you may have, or to provide additional information and detail.

Mr. DINGELL. We thank you for your very helpful testimony.

The Chair recognizes, first, the gentleman from Indiana, Mr. Sharp.

Mr. SHARP. Thank you, Mr. Chairman.

I want to ask Chairman Dunham what was asked of Mr. Schlesinger, and that is, what difficulties would arise if we granted the President authority and it was used to allocate gas to try to put people back to work, not only to heat homes and hospitals?

Mr. DUNHAM. This bill, as you know, deals only with essentially what we term as priority one requirements, human needs categories, plus certain elements of plant protection.

In my opinion, those elements are vital and critical.

In regard to the possibilities for allocations at higher priority levels, I would point out to you that the extraordinary difficulty from either a conceptual standpoint or from a practical standpoint is trying to define those categories.

We have given some thought. There is a proceeding before us that discusses some of these elements, but I would at this point say that there is no experience and no mechanism, but rather very difficult, political, social, and economic questions, in attempting to categorize those levels of possible allocation above the so-called human needs area. I merely point that out to you as expressing what I perceive to be extraordinary difficulty at these higher levels.

Mr. SHARP. As you can appreciate, some of our Districts have many people out of work, and we are deeply concerned. We want, if at all possible, to reopen those factories, if there is a practical way of doing that. Time and again I have had discussions with people involved in this and they tell me the incredibly great number of decisions in trying to get any kind of equity into that process and to accomplish it in a reasonable period of time.

Mr. DUNHAM. Yes. I think it would be somewhat difficult if there was a pool of significant additional gas available which could then be distributed.

In the context of both the intrastate and the interstate systems that we are now talking about, as far as we can see there are extremely limited amounts available for redistribution or reallocation, if you will; it would be quite a different thing if, for instance, the Alaskan supply was available today or in the next week or two, that would be a different context.

Mr. SHARP. You say that which is available. In other words, those pipelines that are in good shape do not represent enough gas; is that what you are suggesting, that if you force them to go down to priority 2 and took everything extra from them and allocated it, it would not begin to put the 400,000 we think are out of work at the moment back to work?

Mr. DUNHAM. The basic assumption you would have to make is what is going to happen with the balance of the winter? As you know, most of the projections are that it will be an extraordinarily colder than normal winter.

I would not at this time attempt to guess that there are at the very high priorities the interruptible sales or some of those categories in any of the pipelines that would make any significant difference.

Mr. SHARP. If I might ask more on behalf of the public's need to know, the value of their turning down their thermostats, I believe what you were pointing to was not only to get us through this critical weekend, for example, where the weather has suddenly turned terrible again, but also in preparation for the next winter.

This must be a consistent effort because our storage is down and we need the gas to take on the next winter, and start praying now it will be a mild winter.

Mr. DUNHAM. That is absolutely the point. We have rough estimates that to get storage back to the situation that it was at the beginning of this winter we would need something in the neighborhood of 300 to 400 to 500 billion cubic feet of new supplies over and above those that are now flowing, expected to flow, or even up above the level of emergency purchases that have been going on in the last year or two.

It is extraordinarily important in getting through this winter and helping to assist with next winter's problem.

Mr. WATT. That is probably the most effective thing we can do, particularly for this winter. Whatever needs to be done by Congress should be done.

If we continue with a harsh winter in February, we are probably too late to do anything that is going to have any significant impact on the economy for this winter.

Mr. SHARP. The conservation effort, even if it turned warm next week, would be absolutely critical the next winter.

Mr. WATT. I think that is correct.

Mr. SHARP. We are not only desperately trying to handle this winter's situation but also we have to talk in terms of next winter already, obviously, which should have been done a long time ago.

Mr. WATT. That is a perspective that we have to keep foremost in our minds; that is, where we had better start looking now for next winter and start praying for this winter.

Mr. SHARP. Thank you.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes the gentleman from Ohio.

Mr. BROWN. Since the bill amounts to the taking of property in terms of the rationing of the gas which is available in the system currently, do you expect that the Presidential authority which will administer the legislation will write guidelines for the decisionmaking under which pipelines will be obliged to give up gas and have their customers impacted?

Mr. DUNHAM. As I read the bill, the first level of responsibility is somewhat of an extension of the way we are now attempting to deal with orders on a case-by-case basis. It runs to the compensation issue we were talking about earlier; if some gas is available and if an appropriate agreement can be undertaken between pipeline A and pipeline B, association A and association B, that would be what they would receive.

That means that the contract for the interchange between the two parties includes adequate either compensation or repayment, which is as in many of the orders that we have done recently.

I would suppose that to be more responsive to your specific question, that the first level of guidelines would be something very close to the priorities of curtailment we now have running from nine—interruptible sales—down to one and two.

Mr. BROWN. In other words, you do anticipate that you will write guidelines that will determine which pipeline companies and customers will be obliged to give up the natural gas to supply those others who are short of natural gas?

Mr. DUNHAM. Guidelines in a general way; but the thrust of the bill is, as I read it, to encourage and provide a mechanism for as much voluntary exchange as possible, extending liability protections and antitrust protections; and then, of course, there is the ability to force interchange.

Mr. BROWN. My question is, beyond that will there be a provision for due process? In other words, for someone who is giving up gas so that it is used by someone else who, it is determined, I assume, by the Presidential authority, to need the gas more, to have the opportunity to plead their case in a hearing—will there be provisions for hearing?

Mr. DUNHAM. There are provisions in here for meetings and so forth. It could be done in a formal hearing process, or, as I read it, by having meetings between the parties with representatives of the Justice Department and the President's representative there at the time.

Mr. BROWN. That speaks to the lifting of the antitrust prosecution or the lifting of the threat of antitrust prosecutions, but I am not talking about the question of antitrust. I am talking about the fact that this bill presumes that one pipeline company and its customers will be obliged to give up gas to provide that gas to another.

Now, will the pipeline and customers who will give up the gas know that there are some guidelines, so that they don't get hurt more than somebody who is presumed to be more in jeopardy than they are? Do you follow my question?

Mr. DUNHAM. Yes. Let me give an example.

Mr. BROWN. I don't want an example. I want to know whether the guidelines will be written or whether it will be settled on a case-by-case basis, and if there will be an opportunity for due process?

Mr. DUNHAM. I would expect that there would be guidelines.

Mr. BROWN. Before you go further, could you answer me how long you anticipate it will take to get those guidelines written, because that speaks to how quickly this legislation can be effective after it is passed and signed by the President?

Mr. DUNHAM. I cannot answer that question completely, because that is the President's decision on whom he wants to assign.

Mr. BROWN. In your experience, how far in writing guidelines in the Federal Power Commission could you estimate the time?

Mr. DUNHAM. I think there is a difference in this bill that gives the President the authority. Whoever does this does not have to follow the same process and procedures that we normally do.

The APA has set aside other relevant positions; so it would merely be a question of how fast those who are responsible for dealing with the problem will set down first guidelines that will have to be perfected in the light of experience.

Mr. BROWN. That is the question. What is your estimate of the time?

Mr. DUNHAM. I will attempt to answer it by saying that the existing curtailment priorities and the methodologies followed by the FPC provide some rough guidelines; namely, are alternative supplies available is one criterion. Beyond that, a more extensive definition, I strongly feel that that will have to result from an immediate attempt, and then a day-by-day, case-by-case application.

Mr. DINGELL. Thank you.

The Chair recognizes the gentleman from Texas, Mr. Krueger.

Mr. KRUEGER. Thank you, Mr. Chairman. We are happy to have the Commissioners from the Federal Power Commission here today, and are encouraged it is quite possible they might be given the task of administering this very large and difficult problem of allocation, if it comes. I think there is probably no better group to do so.

I am wondering, Commissioner Dunham, if you could tell me whether or not the Federal Power Commission at this time has data on the alternate fuel capacity of industries in the United States? The reason I ask this is, if we are going to allocate gas by taking gas away from one industry in order to shift it to residential users, then it clearly would be desirable, if we knew, to take gas from those industries that have alternate fuel capacity in place, rather than perhaps to take it from an industry that has no alternate fuel capacity and simply shut it down. Does the Federal Power Commission have that kind of information?

Mr. DUNHAM. The answer to that is "No, we do not now have adequate current and total information required." It is primarily because of jurisdictional problems. As you know, the end use responsibilities are essentially with the States public utilities commissions.

FEA has some data that they have been able to collect as a result of their laws.

We have a system for combining those elements of data on end use that we have relating only to the jurisdictional companies, and then they have a form that provides some useful information, and it is comprehensive. How current it is, is another question, because this changes very rapidly on almost a day-by-day basis.

Mr. KRUEGER. There is then, some information, but by and large probably very incomplete information about the alternate fuel capacities of industries who might be giving up their gas as a result of this legislation.

Now, another question. On the first page of the bill there is reference to the term "interstate pipeline" and that definition is different from the definition given in the Natural Gas Act.

There are some of us who are concerned that the way in which interstate pipeline is defined is so vague as to include in that definition the gathering facilities from the wellhead rather than simply from the initial point of distribution.

We are concerned that the definition in this bill might be so vague that all of a sudden we will find, without intending it, as presumably the Congress did not intend the *Phillips* decision to be interpreted as it was, we may suddenly have all intrastate gas become interstate gas, because the gathering lines themselves would be in some cases potentially carriers of interstate natural gas. I wonder if you can comment on that?

Mr. DUNHAM. I understand the gentleman's intent is to protect the existing jurisdictional status of both. It does not involve that.

In regard to the legal interpretation, may I call on the General Counsel?

Mr. JOURNEY. Mr. Krueger, this bill, as I understand it, is drafted essentially to be a freestanding bill apart from the definitions of the Natural Gas Act.

There is in that sense a functional definition showing what is interstate transportation for purposes of this bill. Therefore, the refinement

of the "gathering system" versus the "interstate pipeline" is not found in the definitional section. You will find in the bill that no action or order under this act—the authority of this act—will make an otherwise nonjurisdictional entity into a jurisdictional entity for purposes of the Natural Gas Act. So, I think the bill protects the nonjurisdictional status in that sense.

Mr. DINGELL. If the gentleman will yield, that is clearly the intent of the legislation.

Mr. KRUEGER. I am glad to have that in the legislative record.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes now the gentleman from North Carolina, Mr. Broyhill.

Mr. BROYHILL. I earlier asked Dr. Schlesinger for his comments on a suggested amendment that I had prepared that would give some guidelines and at least express some congressional intent as to the way this allocation authority would be carried out.

What my amendment would say is that the Presidential order would first divert that gas which might be expected to be burned as boiler fuel. If no boiler fuel gas is available on the interstate pipelines, then the President could order the diversion of gas in FPC priority 3 or higher.

After all the gas in priority 3 has been diverted, then he could order the diversion of priority 2 gas, except, of course, for the 533 gas which the Secretary indicated was not reached by this act, and that during the emergency the President could prohibit the burning of natural gas as boiler fuel except where it is necessary to generate electricity for human needs and essential public services and there is no alternate fuel capability. This at least would give some orderly procedure as to that gas which would be diverted.

I would like to have your comments on a suggested amendment like that.

Mr. DUNHAM. I addressed somewhat the same type of question earlier. I think at this stage, Dr. Schlesinger said quite obviously what Congress put in the bill would be seriously considered, if not approved by him.

Let me point out one example. These are the same types of issues essentially that run through the existing curtailment orders of the Federal Power Commission which set up these priorities. To my knowledge, those have been contested and argued and litigated, and still I do not believe there is a single final curtailment plan which has been authorized by the courts.

I merely point that out to say that the issue of A over B, B over C, the priority issue, is a very difficult question.

Mr. BROYHILL. Of course, that is the reason why I think it might be essential that some congressional intent be expressed so that guidance can be given to the courts.

Mr. DUNHAM. I point that out, to say that I would imagine that even general terms like that would be extensively debated and discussed, because they are very controversial.

There is one specific that you mentioned in regard to boiler use—fuel for electric generation. Even that has some technological problems in that some electric utilities may have alternative fuel available. Their burners may be adapted to burn fuel oil. But there is a technological problem that after they burn fuel oil for a certain period of time,

some period like a few days or a week or two, then it is necessary to use gas again in this particular type in order to clean out the boiler and flues because of the accumulation.

I point that out to say that at each level of these definitions there are a lot of technological, physical, supply, and other complicated issues in it.

Mr. BROYHILL. What I am concerned about is, because of the lack of congressional guidelines and intent we may be adding to the potential for endless court battles over this particular act and that you are going to have to make some decision here.

If you had some congressional intent, it would certainly give you not only the guidelines but also would assure that you are not going to be overturned in the courts.

Mr. DUNHAM. The President's bill deals with only one level of priority, and that is the human needs plus industrial plant protection.

Mr. BROYHILL. What I am saying is that my amendment would give some guidelines as to who has to give up the gas, not who gets it.

Mr. DUNHAM. Under the bill, there would be no authority to make reallocations above that level of human needs.

Mr. BROYHILL. That is not what I am saying.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes now the gentleman from Connecticut, Mr. Moffett.

Mr. MOFFETT. Thank you, Mr. Chairman.

Mr. Chairman, on the issue of conservation, I read in an FEA perspective report that where a distribution company induces a high priority user to conserve, it might be a disincentive to conservation to allow allocation of that gas elsewhere. This report suggested that one thing the FPC could do would be to prohibit allocation of conservation gas. Now, what does this legislation do to that notion?

In a sense, while the President is saying, "Folks, you have to conserve," are we at the same time really giving no incentive to conserve other than the President's exhortation?

Mr. DUNHAM. As I understand, the FEA definition, really of conservation gas is the broader concept than what the President has been talking about in terms of thermostat setting. The difficulty is that I cannot imagine anyway that it could be ascertained with any great degree of accuracy that if, for instance, in a particular State 100 percent of the people combined and reduced to 65°, then that particular group could be sure that its gas could be allocated for other uses in that State.

I think this is a national type of problem and I think that certainly in this emergency situation it is the only way it can be viewed.

The savings that both the President is talking about and the savings I was talking about have to be used and allocated on a national basis.

Mr. MOFFETT. Maybe a more important question is—and this goes beyond the scope of your agency—we are saying to the public that we are going to enact legislation to help treat this crisis.

What is the public getting in return? First of all, there is no assurance that the gas is going to be there. Put that aside for the moment. What else are they getting in return?

With regard to the conservation efforts, for example, are there some distributors who are still securing more gas by load switching

from industrial to residential, for example, or by attempting to attract new customers?

Mr. DUNHAM. Yes; there are some distributors that are adding new customers. I don't mean today, but in the most recent period. I don't know the situation today.

Mr. MOFFETT. That is good. In terms of what the public gets in return then, I really cannot see where the government, either Federal or State, is clamping down on waste. One, it seems there are going to be windfall profits, at least as it appears to me.

So let us ask what else they get. Do they get increased data collection by your Commission? In other words, will you be analyzing production rates and trying to pinpoint the cause of the shortage in a way you were not doing before, intensifying your activities in that area?

Mr. DUNHAM. This bill does not give the Federal Power Commission any additional information authority.

Mr. MOFFETT. There are those who have suggested you have not used the authority you have to acquire information, that you have not been aggressive in information gathering. Not you, personally. I am sure you understand that.

Historically the Commission, particularly the Commission under Nassikas, has not been very aggressive in information gathering.

Mr. DUNHAM. I know we have many problems regarding getting specific information. The greater part of them, in my recollection, during this last year have been related to court orders estopping our powers to collect certain elements of information.

Mr. MOFFETT. We understand some distributors are encouraging people to use natural gas.

Mr. DUNHAM. I have not attempted to survey it. I assume there probably are some in some areas of surplus situations.

Mr. MOFFETT. You can't get involved in that, can you?

Mr. DUNHAM. That is essentially State jurisdiction.

Mr. MOFFETT. How many States have end-use allocation plans similar to your curtailment?

Mr. DUNHAM. The vast majority have curtailment plans that roughly approximate or could relate with us, either in actual practice or ready to be used. I assume in the area we are talking about, all of them are in place now. They are not exactly the same, but in my recollection in most of the States I have dealt with specifically, they do parallel pretty closely, but adapted or fitted, if you will, to specific needs of the end-user State, which is an important element.

Mr. DEVINE. Thank you, Mr. Chairman.

Mr. Dunham, your, I think, consumers and the public generally have been led to believe by some persons and by the electronic as well as the printed media that there really is no shortage of energy in this country; that this is just a conspiracy by the big oil, big gas companies to hold back their supplies and wait for deregulation and then ripoff the public by having higher prices.

Do you, as chairman of this regulatory agency, have access to information that possibly the general public does not? Do you think that there is indeed a severe shortage of natural gas in this country and no supplies available other than being put out?

Mr. DUNHAM. There is no question in regard to that, Mr. Devine. In publications of the Federal Power Commission since 1969 and 1970, I think the bare facts have shown, and I think as Dr. Schlesinger has pointed out, that we have been using natural gas at approximately twice the rate that we are finding new reserves of natural gas.

Without regard to the second part of motivations and speculation, I think the bare facts illustrate that we just simply do not have adequate supplies of natural gas within the 48 States, and what we know of the offshore areas and what we know of Alaska, to meet the demand at the present level that we are spending it.

Mr. DEVINE. Our chairman, in his opening statement, mentioned, I think, we have produced about 6 or 7 percent more natural gas this year than we did last. Do you believe these stories are rampant that a lot of the natural gas producers have capped wells and are just waiting back for deregulation and then will sell at a high price? Is it another rumor that has been espoused?

Mr. DUNHAM. No evidence has been presented to the Federal Power Commission in any of its proceedings to that effect. We have had a number of investigations in regard to enforcement of deliverability of gas that is jurisdictional to the Federal Power Commission. And in regard to the two specific investigations that we concluded within the last few months, the latter part of the fall, we found no evidence to support, in those two cases, that there was holding back.

Mr. DEVINE. I yield the balance of my time to the gentleman from Ohio, Mr. Brown.

Mr. BROWN. Columbia Gas, which serves our gas-short area, recently made a purchase of natural gas from Canada, and you are sitting on a procedure in connection with that at this time, as I understand. Of course, it is cold in Canada also, but they had a surplus because they deregulated gas 2 years ago, as I understand.

But I was rather startled in this legislation to find that the President's proposal actually prohibits the possibility of purchase of gas from some sources which could give immediate relief to those of us who are short of gas in our country. On pages 9 and 10 of the bill, section 6, your 180-day proposal has some extensive limitations. Could you comment on each one of them?

First, no purchase is allowed of gas produced by producers affiliated with interstate pipelines. This eliminates gas produced by such people as Texaco, Shell, and City Service.

Why do you want to cut off such an important source of gas in this time of shortage in a bill that is predicated on public health and safety? No purchase of gas is allowed from offshore gas.

We understand there might be some of this destined for refinery use in Texas and Louisiana, which might be available on a short-term basis. Why cut it off? Why not allow gas purchasers from other interstate pipelines? Why would a producer sell into an interstate market under a short-term sale with a potential price ceiling when he can sell intrastate without a threat of imposed price ceilings? Why is that in the bill?

Mr. DUNHAM. My general comments relate to this. In the specifics of the bill, there were policy choices made by the administration. I do not know to comment on that.

Mr. BROWN. Does that not, in effect, reduce the availability of immediately available natural gas to those of us who have schools closed, people out of work and the possibility of a cutoff of residences? If you open these up, could we not get some more gas right now for those purposes?

Mr. DUNHAM. There is nothing in this bill which sets aside the existing process and procedures under the Natural Gas Act except for these specific areas addressed.

For instance, the Canadian sale that you mentioned——

Mr. BROWN. I am not worried about the Canadian sale. I am worried about these prohibited, in the language of this bill. I wonder if we should not take these exemptions out.

Mr. DUNHAM. This does not exclude the possibility of future purchases from areas such as Canada because they could go forward under existing natural gas procedures, as the Canadian sale was accomplished about 10 days ago.

Mr. DINGELL. The chairman observes the time of the gentleman has expired. The Chair recognizes the gentleman from California, Mr. Moorhead.

Mr. MOORHEAD. Mr. Dunham, Dr. Schlesinger, when he was talking a few minutes ago, said he hoped that much of the accomplishments that he hoped for, the bill could be done through voluntary action and that the bill itself thus increased money to be paid for gas now used exclusively in interstate commerce would come into the interstate system.

Is it your idea this bill should be used to encourage voluntary action to the greatest extent possible rather than forced regulations where they could be avoided?

Mr. DUNHAM. My understanding of the bill, that is the interpretation and intent put on it, in that it encourages voluntary cooperation, and permits it by giving protection against antitrust and in regard to liability of pipelines in regard to their contractual responsibilities versus people they serve.

This provides a mechanism in the meetings and with the authority of the President to extend those. I believe the intent is to encourage the voluntary way and to extend those protections which are very important to the accomplishment of voluntary interchanges.

Mr. MOORHEAD. Can you yourself foresee any possibility of difficulties of antitrust proceedings that the companies might get into as a result of these voluntary agreements?

Mr. DUNHAM. I would not be competent to answer those questions. I think they would have to be directed to the Department of Justice.

Mr. MOORHEAD. I am concerned with your feelings about this and the other members of your Commission, because you may very well be required to draw up the guidelines. But there are many of the companies that, at the present time, are supplying gas to other companies that are in very serious difficulties to try to warm up the eastern part of the country.

And would it be your intention that those companies would receive credits, or you would consider the voluntary negotiations that they have already gone into when you consider what other gas you are going to take from them?

In other words, they are going to have to give up 5 percent of their gas, and they give up 5 percent to a company in trouble voluntarily, are you going to get another 5 percent from them?

Mr. DUNHAM. I would imagine the President's representative would take into account all factors as the bill provides. That might very well be one.

Mr. WATT. I would encourage the committee to address that question very seriously. We have seen several pipeline companies who have come forth on a voluntary basis and have been very helpful in helping the situations with Southern Natural Gas and Columbia Transmission Cos.

If there is need to give the antitrust and the liability protections after the passage of the act, there also could be well presented an argument to justify those same protections to the companies that did it before that protection was provided by statutory law. If there is some way to go back and pick that up and protect them, we would be giving more equal treatment to pipelines who moved on a voluntary basis already.

Mr. MOORHEAD. I understand the effective time of this bill is approximately 6 months. Yet we have heard conversations about what could be done to solve the problems next winter through this bill. We are told there is going to be a permanent program presented to Congress within the next 3 months. How much of the problems of next winter do you think could be handled by this temporary bill?

Mr. DUNHAM. As I pointed out in my opening statement, in my opinion, the section 6 will assist in meeting next winter's problem by virtue of extending the opportunity for emergency purchases until August 1. In attempting to characterize the ability of that section to solve the problem, I think I was extraordinarily more cautious in that regard and I pointed out the enormous additional volumes up and above both flowing gas now and the emergency sales levels of last year. There was a big gap.

That depends, quite obviously, on the prime variable in this whole equation: the weather. You could answer that question, if somebody knew what the weather was going to be during the next 6 months, with a great deal more precision than I am able to do at this time.

Mr. MOORHEAD. Thank you very much.

Mr. DINGELL. The time of the questions has expired.

Mr. Chairman, I have several questions here. The first is one relating to the power that currently exists with regard to voluntary transfers of gas between interstate pipelines. This authority which does exist in the Federal Power Commission, is now being exercised, is it not?

Mr. DUNHAM. Yes—15722 is the section.

Mr. DINGELL. So there is no need to add this authority to the legislation, is there?

Mr. DUNHAM. No, this is a free-standing bill. The Natural Gas Act proceeds apace, so to speak.

Mr. DINGELL. Mr. Chairman, the bill does not allow interstate pipelines or local distribution companies served by them to buy gas under section 6 from producers affiliated with interstate pipelines. I have several questions regarding this.

How much gas will this exclude from purchase under section 6? What is the Federal Power Commission's historical position on this

matter and why has the Federal Power Commission had that historical position, Mr. Chairman?

Mr. JOURNEY. Chairman Dingell, I have not seen any data to know much of this affiliated production would be involved in terms of Mcf. I would expect that since a lot of this affiliated production is offshore, more could be a relatively subsequent amount. We could supply for the record an estimate of what the volumes would be, based on some of the ongoing proceedings at the FPC. I am thinking of the "Behind the Pipe" and some of the other cases that we have.

Mr. DINGELL. If you could submit that for us, it would be appreciated. In the meantime, could you give us your best judgment as to whether it would create any significant amount of gas?

Mr. JOURNEY. There is another aspect of the problem. It has to do with the reservation of gas for refinery and other use, what we colloquially call the "Chandeleur problem" at the FPC. It is the use of gas for that kind of work. I think we ought to look at the numbers there.

Mr. DINGELL. I must indicate to you, that is a source of irritation to the Chair at this particular tune.

Mr. BROWN. I share that with the chairman.

Mr. JOURNEY. There are pending before the Commission, at the present time, a number of proceedings in which the reservation point is at issue. We are also in the courts on some orders of the Commission, specifically opinions 727 and 743, litigating aspects of that question.

As I understood your second question, I want to state it to make sure I correctly understood it. Perhaps I should ask, are you talking about pipeline production?

Mr. DINGELL. I am talking about production by affiliates of pipelines and the historical position of the Federal Power Commission, and why the Commission has that position.

Mr. JOURNEY. In terms of the ability to cause the gas to be produced in the first instance?

Mr. DINGELL. No, in terms of excluding it from emergency sales, as might be done or has been suggested. In other words, why has the Commission traditionally not allowed emergency sales by affiliates of interstate pipelines to their own interstate pipeline or to other interstate pipelines of gas produced by that affiliate of the interstate pipeline?

Mr. JOURNEY. One of the problems, Mr. Dingell, is in relation to the cost of service requirements that we have, the no-profits-to-affiliates, the cost rules for the production part and the pipeline part. I think your question raises or dips into a deeper question, and it is the *Sunray DX* problem I have reference to, whether or not some of that gas has ever been dedicated to the interstate market.

Mr. BROWN. Would the gentleman yield?

Mr. DINGELL. Yes, I will yield to the gentleman. But let me pursue this. For some reason we do not seem to be vibrating on the same wave length. I will yield briefly to the gentleman.

Mr. BROWN. Does it not have to do with the fact historically, the transfer of gas from subsidiary to an interstate pipeline that is connected in the same business venture is not an arm's-length transaction and, therefore, you prohibit it?

However, in this bill you abrogate the normal antitrust procedures and put in supervision of that. It seems to me that could be done, and I think to the Chair, that that could be done in this circumstance and we could turn up some more gas for short markets.

Mr. JOURNEY. The offshore gas, offshore Federal domain gas is now dedicated to the interstate market.

Mr. DINGELL. We are talking about onshore production by affiliates of interstate pipelines. This other matter is a question also.

Mr. JOURNEY. That is right. But some of that on-shore affiliated production gas is not now dedicated. It could be and I suspect there are instances where some of that gas has probably come in under some of the extant emergency procedures of the Commission, 2.68 sales. I could check the records to see whether that was true or not. I suspect that may be true, but the reach of the bill here, as I understand the purpose or the intent of the draftsman on the emergency purchase was to recognize that the off-shore Federal domain gas is now dedicated to the interstate market and there are ongoing procedures under the Federal Power and Natural Gas Act for the pricing of that. Also, there is an assumption that an interstate pipeline's corporate affiliate would or should do its best to help the pipeline.

Mr. DINGELL. I have such limited time. I dare not pursue this matter further, but the Chair is going to request the staff to make further inquiries on this matter and receive proper responses from the Commission so we have an adequate record on this particular point.

I have a final question which is sort of in the nature of a summary which underlays, I think, the whole basis of the bill. I assume the Commission supports the legislation before the committee. Is there any question on that?

Mr. DUNHAM. In the first part of my testimony I said the Federal Power Commission strongly supports this legislation.

Mr. DINGELL. Is it not fair to say, gentlemen, on the basis of the information available to the Commission, including the current status of stored natural gas inventories, that the present situation is likely to get worse, indeed, possibly substantially worse, before things get better even if the weather is normally cold for the remainder of the winter? The emergency will certainly get much worse rapidly if the unprecedented cold weather continues for any period and this action or some action very strongly similar thereto is not taken.

Mr. DUNHAM. There is no question in my mind that even with normal weather, not the colder than normal we are now having, there is still a very significant problem, both in the short term and certainly in getting storage up to the situation to begin next winter's level. There is no question.

Mr. DINGELL. I assume the Commission also concurs on that in fact, gentlemen.

Gentlemen, can you give us precisely how long the Congress has before this legislation has to be passed in order for the necessary procedures be applied by the President and the agency to see the gas flowing into the gas service—

Mr. DUNHAM. I think the necessity for this legislation is immediate. We have had, as you know, Mr. Chairman, a number of proceedings in this emergency situation, the Federal Power Commission, almost on a daily basis for the last 2 weeks.

I think the string is getting pretty close to being run out under our existing procedures and authority. The answer then to your question is, immediately, as soon as possible.

Mr. BROWN. Mr. Chairman.

Mr. DINGELL. Mr. Chairman, we thank you.

Mr. Brown, briefly.

Mr. BROWN. Mr. Chairman, one point. Our calculations indicate that just four of the companies which under the affiliated provisions would not be allowed to sell under section 6 of this bill have been producing about 2 billion cubic feet per year. A good part of this is in the intrastate market and could become available if the affiliate limitation were not in the bill. I am just startled the limitation is in there.

Mr. SMITH. Congressman, I must say I agree with you on that point. I think the arm's-length transaction could be achieved by wording it a bit differently to present the sales by such an affiliate to itself and still make the volumes available.

Mr. BROWN. I am fascinated as to how such a thing got in the bill that is supposed to take care of emergency human needs. That you eliminate that much from the possibility of flowing into the market, I cannot get over it.

Mr. DINGELL. Gentlemen, you have been very helpful to the committee and the committee thanks you for your appearance here today. I assume our staff will continue to have the valuable assistance of you and your able staff down at the Commission as this matter goes forward.

Gentlemen, we thank you all.

[The following letter and attachments were received for the record:]

FEDERAL POWER COMMISSION,
Washington, D.C., January 29, 1977.

HON. JOHN DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.,

DEAR MR. CHAIRMAN: Supplementing my response to questions which you and Congressman Clarence J. Brown posed at the committee hearing on January 28, 1977, I am enclosing four copies of an FPC staff compilation covering volumes of gas produced by affiliated entities of interstate pipelines and non-affiliated entities for the interstate market, from offshore federal domain and onshore sources. These data cover calendar year 1975.

As I indicated in response to one of your questions, extant FPC data sources do not cover production of such entities in the intrastate markets. This reflects the fact that the Commission currently does not have all the information gathering authority which it has requested over a long period of time. It should be pointed out that the interstate volumes for 1975 are preliminary and are subject to some adjustment; however, it is not expected that the volumes will change significantly.

Attached to the compilation is a staff listing of producers affiliated with interstate pipelines. This listing is also preliminary and subject to some adjustment.

As I indicated in my testimony of the 28th, in reviewing the policy choices of Section 6(a)(1) of H.R. 2500, it is helpful to keep in mind two unstated assumptions of the bill—that corporate affiliates of an interstate pipeline would continually undertake full gas supply support programs for their interstate pipeline affiliates' interstate market needs, and that they would do from offshore Federal domain sources recognizing extant price control and certification procedures of the FPC where applicable. Offshore Federal domain gas is interstate gas by past judicial definition.

If the committee requires additional information, please advise me and we will respond to your request. Copies of this letter and enclosures are also being sent to Congressman Clarence J. Brown.

Sincerely,

DREXEL D. JOURNEY,
General Counsel.

Enclosures.

1975 PIPELINE PURCHASES FROM PRODUCERS ACCORDING TO AFFILIATION

[Volumes in trillion cubic feet]

	Onshore	Percent	Offshore	Percent
Pipeline purchases:				
From nonaffiliated producers.....	8.8	97	2.4	89
From affiliated producers.....	.3	3	.3	11
Total.....	9.1	100	2.7	100

Source: Staff compilation of FPC form No. 2 data.

Natural gas pipelines and producing affiliates

<i>Interstate pipeline companies</i>	<i>Pipeline's producing affiliate(s)</i>
Arkansas Louisiana Gas Co.....	Arkla. Exploring Co.
Arkansas Oklahoma Gas Corp.....	-----
Carnegie Natural Gas Co.....	-----
Cities Service Gas Co.....	Cities Service Oil Co.
Colorado Interstate Corp.....	Colorado Oil & Gas Corp.
Columbia Gas Transmission Corp.....	Columbia Gas Development Corp.
Consolidated Gas Supply Corp.....	-----
El Paso Natural Gas Co.....	Northwest Products Corp.
Equitable Gas Co.....	Pecos Co.
Inland Gas Co., Inc.....	-----
Iroquois Gas Corp.....	-----
Jupiter Corp.....	-----
Kansas-Nebraska Natural Gas Co., Inc.	Excelsior Oil Corp.
Kentucky West Virginia Gas Co.....	-----
Lake Shore Pipe Line Co.....	-----
Lone Star Gas Co.....	Lone Star Producing Co.
McCulloch Interstate Gas Corp.....	McCulloch Gas Processing Co.
Michigan Wisconsin Pipe Line Co.....	-----
Mid Louisiana Gas Co.....	-----
Mississippi River Trans. Corp.....	-----
Montana-Dakota Utilities Co.....	-----
Mountain Fuel Supply Co.....	-----
Mountain Gas Co.....	Appalachian Exploration & Development, Inc.
Natural Gas Pipeline Co. of America...	Cabot Corp.
North Pennsylvania Gas Co.....	-----
Northern Natural Gas Co.....	Northern Natural Gas Producing Co.
Northern Utilities, Inc.....	-----
Oklahoma Natural Gas Gathering Corp	Oklahoma Natural Gas Co.
Panhandle Eastern Pipe Line Co.....	Anadarko Products Co.
Pennsylvania Gas Co.....	-----
South Texas Natural Gas Gathering Co	Coastal States Gas Producing Co.
Southern Natural Gas Corp.....	-----
Sylvania Corp.....	-----
Tenneco Inc.....	Tenneco Oil Co.
Texas Eastern Transmission Corp.....	-----
Texas Gas Pipe Line Corp.....	Union Texas Petroleum, a Division of Allied.
Texas Gas Transmission Corp.....	Texas Gas Exploration Corp.
Trunkline Gas Co.....	-----
United Gas Pipeline Co.....	Pennzoil Pipeline Co.
United Natural Gas Co.....	Pennzoil Producing Co.
Valley Gas Transmission, Inc.....	Pennzoil United, Inc.
Western Gas Interstate.....	Houston Natural Gas Products Co.

Mr. DINGELL. Before we hear from the next panel of witnesses, we will, without objection, insert in the record as though read, several statements from colleagues in the House who were unable to attend in person.

STATEMENT OF HON. JAMES M. HANLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. HANLEY. Mr. Chairman, the news media is filled today, as it has been for weeks, with cries and gnashing of teeth over the crisis we face because of apparent shortages of natural gas supplies in many regions of the nation. How real or how manufactured this crisis is should be a major element in the deliberations of this committee so that the public is assured that whatever hardships it is asked to endure are really necessary and purposeful.

Today I would like to highlight an aspect of the home heating and fuel conservation issue which might get lost in the shuffle amid the rush to resolve the principal larger problem. I refer to the matter of adequate funding for the home winterization program now managed through the Federal Community Services Administration. This program provides technical and financial aid to low-income families for the installation and maintenance of adequate insulation in their homes. The program is an example of what can be done to conserve fuel resources and cut fuel costs by the one-time installation of proper insulation. Besides the energy savings, the employment generated by the program has an important stimulative role to play in low income and high unemployment areas.

Thus, Mr. Chairman, I would urge this committee to include a strong recommendation for the continued funding of title 10 of the Public Works and Economic Development Act of 1965 as amended in the Supplemental Appropriation which will be upcoming shortly. Further, I would urge that the program be retained in the CSA rather than parceled out to another program.

Also, Mr. Chairman, I would suggest that the matter of home insulation be considered in detail as a major part of any fuel conservation effort suggested by this committee. Strong endorsement of tax credits or deductions for homeowners and apartment building owners for the costs of installing efficient, energy-saving devices and static insulation might well be the catalyst for a broad nationwide program of home insulation. The consequent savings of the fuels now in short supply, the relaxation of dependence on foreign fuel supplies, the greater efficiency of heating and cooling machinery, the reduced costs to consumers—especially those at the lower end of the income spectrum and those senior citizens who want desperately to retain their own homes—and the jobs produced for the thousands of unemployed semiskilled men and women who could be put to work are cogent and compelling arguments for the immediate endorsement of this program as an important element in the overall energy crisis resolution.

At this point, Mr. Chairman, I would like to include for the record a statement from Mr. Glenn Brown, executive director of P.E.A.C.E., Inc. of Onondaga County, and president of the New York State

Community Action Program Directors Association. Mr. Brown has a long and intense involvement in the basic resolution of the human problems associated with low income and disadvantaged families. He can contribute greatly to the understanding which this committee requires for the development of comprehensive policies and relevant programs for all citizens who face the energy crisis.

STATEMENT OF NEW YORK STATE COMMUNITY ACTION AGENCY EXECUTIVE DIRECTORS ASSOCIATION—TITLE X, PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

PROBLEMS AND IMPACT

Our Community Action Agencies in New York, working with the New York State Division of Economic Opportunity and the Community Services Administration have utilized funds appropriated under the Public Works and Economic Development Act of 1965 to implement programs designed to provide vital services to the disadvantaged and elderly in our state. These programs have employed more than 520 persons who had previously been unemployed or on welfare. Over 80% of the persons employed have been unskilled, and thus among those least able to compete for other jobs.

Examples of the programs we have conducted with Title X funds are:

WINTERIZATION

The state-wide winterization effort has insulated and weatherized more than 5000 homes of elderly and low-income people. The savings of scarce money that formerly went for fuel enables these persons to better meet the rising costs of other basic necessities of life, such as food and medical care. More than 60% of the homes winterized were those of elderly or handicapped persons, those least able to cope with the vanishing buying power of fixed incomes. The energy conservation made possible by this program has had impact, not only on the individual families served, but on efforts to conserve fuel in our worsening energy shortage. It is ironic that, in the middle of our bitterest winter of the century, this proven humanitarian and conservation effort is facing imminent shutdown. And, there is no other such program in place or planned to replace it.

NORTH COUNTRY CHILDREN'S CLINIC

Title X funds have been the major support of this clinic's work in four North Country counties. The free clinic's services to children and families with no other access to the health delivery system will be crippled without the work of the staff members employed under Title X. And, 21 staff members will return to unemployment and welfare by mid-February when Title X funds are exhausted.

Other programs throughout the state will feel the impact of Title X termination. While we are addressing ourselves primarily to programs sponsored by our Community Action Agencies, these are only a part of the more than 76 programs employing more than 7800 persons under a variety of sponsorships throughout the state. Attached to this statement is a list of all Title X projects approved for New York State.

Yet, all of these efforts, which are operational and of proven value will end with the exhaustion of Title X funds. Employees of the programs will return to unemployment and welfare and low-income and elderly persons will be denied the vital services that are provided.

This is a need now!

While effective and long range solutions to the problems these Title X programs now address will take time to formulate and implement, Title X is in place now. Its continuation will present mass layoffs of people least able to compete for remaining scarce jobs, and will forestall a tragic cut-off of services to needy people.

The authorization to extend Title X was enacted by the last Congress, and the programs at the local level are operational and experienced. A supplemental appropriation would allow the continuation of these EDA Title X efforts, save the jobs of over 7,800 persons, more than 500 of whom are employed by our Community Action Agencies, and allow the time to formulate a more lasting method of supporting these vital efforts. Thank you.

PROJECTS SELECTED FOR ALLOCATION OF TITLE X FUNDS, SORTED BY STATE AND COUNTY

EDA project identification	CS DST CD	State	County	Agency	Short title of project	Requested Title X funds	Requested total funds	Estimated number employees	Project contracts
01615556413	39	NY	Allegany	AGSCS	Resource conservation aid.	\$180,000	\$180,000	15	1
01615105156	20	NY	Bronx	INTNPS	Restoration of New York Botanical Gardens.	175,000	350,000	25	1
01615227230	23	NY	do	HEW	Modernization.	750,000	1,500,000	180	25
01615338238	03	NY	do	HEWPHS	Martin Luther King Neighborhood Health Center.	200,000	8,157,190	363	1
01615000338	33	NY	do	HEWPHS	Einstein Neighborhood Health Center.	50,000	1,500,000	67	1
01615336833	58	NY	do	HEWPHS	Hunts Point multiservice center.	100,000	2,893,311	129	1
01615736191	27	NY	Broome	CSA	Home winterization and basic home repairs project.	76,150	119,180	16	1
01615651513	1	NY	Cattaraugus	AGSCS	Resource conservation aid.	240,000	240,000	20	1
01615146991	98	NY	do	DOLMA	Seneca-nation community services.	26,400	26,400	4	1
01615749191	33	NY	Cayuga	CSA	Housing rehabilitation—manpower training program.	97,919	97,919	12	1
01615116313	39	NY	Chautauqua	AGSCS	Resource conservation aid.	180,000	180,000	15	1
01615116613	32	NY	Chenango	AGSCS	Resource conservation AUR.	120,000	120,000	10	1
01615716391	32	NY	Cortland	CSA	Project job opportunity.	92,275	92,275	19	1
01615541113	27	NY	Delaware	AGSCS	Resource conservation aid.	180,000	180,000	15	1
01615866530	37	NY	Erie	HEW	Total replacement of obsolete facility.	2,500,000	3,500,000	400	1
01615337130	37	NY	do	HEW	Total replacement of obsolete hospital.	1,500,000	2,043,000	223	1
01615846565	33	NY	do	JUSLEA	Police personnel reinstatement.	296,054	296,054	14	1
01615316460	98	NY	do	HEW	Veneral disease control.	32,000	202,772	19	1
01615000100	98	NY	do	HEW	Immunization program.	64,642	202,955	20	1
01615037000	98	NY	do	HEW	Childhood lead poisoning control.	199,780	555,270	45	1
01615006400	98	NY	do	HEW	Buffalo Neighborhood Health Center.	870,000	870,000	39	1
01615266621	29	NY	Greene	EPA	Stream improvement.	135,000	135,000	18	1
01615765691	30	NY	Jefferson	CSA	North County Childrens Clinic.	140,000	150,000	18	1
01615016673	30	NY	do	AGSCS	Resource conservation aid.	120,000	120,000	15	1
01615000874	22	NY	Kings	ARBA	20th Street rehabilitation project.	10,000	80,000	10	1
01615364730	98	NY	do	HEW	Total replacement of hazardous and obsolete hospital.	2,500,000	3,825,000	450	1
01615416433	98	NY	do	HEWPHS	Charles Drew Neighborhood Health Center.	150,000	2,561,063	113	1
01615436613	30	NY	Lewis	AGSCS	Resource conservation aid.	60,000	60,000	5	1
01615556413	32	NY	Madison	AGSCS	do.	240,000	240,000	20	1
01615336530	98	NY	Monroe	HEW	do.	300,000	8,500,000	425	1
01615336321	5	NY	Nassau	HEW	Rochester health network.	75,000	75,000	7	1
01615336321	5	NY	do	HEW	Code enforcement project.	168,750	168,750	14	1
01615270130	18	NY	New York	EPA	Environmental conservation corps.	2,500,000	2,500,000	300	1
01615200121	98	NY	do	HEW	Modernization of obsolete hospital.	240,000	240,000	20	1
01615008933	98	NY	do	EPA	Surveys of sewer system.	100,000	3,100,000	138	1
01615008933	98	NY	do	HEWPHS	Neighborhood health services program.	100,000	3,306,123	147	1
01615008930	98	NY	do	HEWPHS	Nena Health Center.	200,000	405,000	21	1
01615008930	98	NY	do	HEW	Taino Towers Comprehensive Health Center.	200,000	5,551,082	234	1
01615040130	98	NY	do	HEW	Gouverneur Neighborhood Health Center.	200,000	5,551,082	234	1
01615040130	98	NY	do	HEW	Fire salvage and emergency building rehabilitation.	2,871,683	3,452,034	154	1
01615040130	98	NY	do	HEW	Restoration and preservation of Erie Canal lands.	278,400	3,348,000	33	1
01310204900	36	NY	Niagara	COMEDA	do.	278,400	3,348,000	33	1

**STATEMENT OF HON. WILLIAM H. HARSHA, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF OHIO**

Mr. HARSHA. Mr. Chairman, the severe winter with its subfreezing temperatures now being experienced all across this Nation has created a critical shortage of natural gas.

In my district and throughout the State of Ohio, the natural gas shortage has reached crisis proportions, with the frozen Ohio River preventing the supply of alternative fuels, thus further complicating an already desperate situation.

This is an emergency condition requiring emergency measures. I, therefore, urge swift and favorable action on the Emergency Natural Gas Act of 1977 (H.R. 2500), which will authorize the President to allocate supplies of gas from one interstate pipeline to another when the gas emergency appears to imminently affect priority 1 users—those being residential and small commercial businesses utilizing less than 50,000 cubic feet on a peak day.

This legislation will authorize interstate pipelines to go into intrastate markets to purchase additional natural gas, at the free market price. And even though intrastate gas will then be flowing into interstate lines, no further Federal Power Commission control will be extended to the intrastate lines.

The Federal Power Commission will be able to continue the emergency sales program now in effect.

However, the national emergency we now face dictates that we quickly approve this temporary measure to meet that emergency. Passage of this bill will give Congress time to address the long-term natural gas problem after the current winter crisis.

While there is not enough gas to take care of industrial plants immediately, approval of a temporary measure will give us time to approach the problem in a more rational climate.

It is imperative that relief be provided immediately. Otherwise, the supply of natural gas for homes and high priority users will be cut as has already been the case with schools and businesses.

I urge this committee to report H.R. 2500, free of controversial amendments that would diminish its effectiveness and delay its passage by the full House.

Thank you, Mr. Chairman.

**STATEMENT OF HON. CHALMERS P. WYLIE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF OHIO**

Mr. WYLIE. Mr. Chairman, I would like to thank the distinguished gentleman from Michigan, Mr. Dingell, for promptly holding hearings on the administration's emergency natural gas allocation legislation.

Except for the far Southwestern portions of the United States, we are presently experiencing the worst winter that anyone can remember and we still have another 60 days before relief can be expected from the weather. Many areas of the Midwest including my own State of Ohio have experienced the coldest temperatures in recorded history.

From what I have been able to gather this unusual cold spell has been inflicted on the Midwest, New England, and the South by frigid westerlies and related jet stream that have shifted far into the South

this winter carrying frigid air out of the Arctic. What this phenomenon means is rather confusing. What I know is that it is bitter cold in Ohio with no immediate relief in sight. Meteorologists at the National Weather Service contend that the below freezing, abnormally low temperatures are going to continue for the rest of the winter.

This situation has caused serious problems for the constituents that I represent in central Ohio. Industrial plants in Ohio are either shut down or in the process of closing due to a lack of natural gas. Public schools have closed or are closing.

The crippling natural gas shortage has reduced the supply in central Ohio to the point where there is barely enough to keep residential buildings and essential public facilities such as hospitals at conservation temperatures of 65° or less. Certain large commercial enterprises that are fueled by natural gas have been shut down and many small businesses are operating on greatly reduced allocations. When Ohio energy officials estimated early in January that despite the potential of complete natural gas curtailment to schools, business, and industry there would not be residential curtailments, they based that prediction on a long range forecast by the National Weather Service that temperatures would average some 20° below normal for the remainder of this winter. Since they made that prediction daily temperatures have averaged over 30° below normal. State energy officials are now not certain that there will even be a gas supply for all residential customers if subzero temperatures continue for any length of time and conservation requests are not heeded by all consumers.

As a result of the cold and related natural gas shortages, 75,000 Ohio workers are currently unemployed. The Ohio Manufacturers Association is now predicting that energy caused layoffs may go as high as 500,000 employees in Ohio if no relief, either in terms of additional natural gas or warmer temperatures, is forthcoming. Business firms in Ohio have been very good in their efforts to convert to fuels other than natural gas where this is feasible. Unfortunately, even those companies that can use propane, coal, or oil as an optional fuel have found it next to impossible in many areas to obtain supplies.

Gov. James A. Rhodes has declared an "energy crisis." This would give our Governor authority similar to a declaration of martial law. The situation is most critical and Ohio is on the brink of a disastrous situation if nothing changes in terms of natural gas supplies or in the weather.

President Carter is to be commended for promptly sending the Emergency Natural Gas Act of 1977 to the Congress for the immediate consideration which is now taking place in both the House and the Senate.

The bill will provide for the emergency sale of surplus gas if any can be found and will provide for the pooling of whatever gas is available and for the allocation to priority 1 users. I asked gas company officials on Wednesday as to whether this bill would provide the necessary relief. We were told that this bill is a chance we have to take. We can't become involved in a discussion of what has happened in the past or what is likely to happen in the future. We have a critical emergency situation in Ohio. It is reliably reported that Ohio is the hardest hit of any of the States in the country. This emergency legislation must be passed as rapidly as possible.

Thank you, Mr. Chairman.

**STATEMENT OF HON. ROBERT S. WALKER, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF PENNSYLVANIA**

Mr. WALKER. The natural gas shortage is a most serious problem with the potential to cause a great deal of human misery—a fact already becoming a reality as thousands are put out of work. Congress must act promptly and appropriately. The area I represent—Lancaster, Lebanon, and Chester Counties in Pennsylvania—has been hit hard.

On January 24, 1977, I was informed that there would be a 75-percent curtailment of critical use, base volume deliveries of natural gas to major industries and at least one hospital in the 16th District. Potentially, this could mean a layoff of more than 11,000 people in the area of Pennsylvania I represent. Already sizable layoffs have begun.

On a larger scale, the gas curtailment altogether affected 48 large eastern Pennsylvania commercial and industrial firms. There is an estimate that as many as 63,000 jobs could be affected by this gas shortage. This curtailment became effective on Tuesday, January 25, and will continue at least through the winter season. On Monday, January 24, all private and public schools were closed in the State of Pennsylvania effective January 27 to January 31. If the crisis continues, schools may not reopen at that time.

In my opinion there are two things that should be done to alleviate this crisis. I have made these proposals in a letter to President Carter on January 25. The following are my specific courses of action:

1. An immediate temporary deregulation of natural gas prices on a short-term basis—perhaps for a period of 120 days. We may want to further consider whether long-term deregulation is in the best national interest but as a solution to our short-term needs, deregulation is absolutely essential to get any supplies presently available intrastate into interstate distribution.

2. An equitable formula should be developed and put into effect which will permit a fair distribution of natural gas supplies to all areas of the country with particular emphasis on those sections that are faced with serious curtailment problems.

It is important that Congress and the President act quickly to help solve the problems caused by the gas shortage. Failure to act or slowness to respond, will be a failure of our duty as Representatives of the American people.

Mr. DINGELL. Our next panel is a panel of Governors of States: Gov. Brendan Byrne, Governor of New Jersey; Governor Briscoe, Governor of Texas; Governor Shapp, Governor of Pennsylvania; Gov. Hugh Carey, Governor of the State of New York and a former colleague of ours and friend of the occupant of the chair.

The Chair notes also that three of the Governors are from consuming States which have already declared a state of emergency in their respective States relative to natural gas supply and have required certain extraordinary actions of industry and citizens within those States and also of State agencies. We are appreciative of their attendance today.

Gentlemen, if you would take your seats. We are pleased to welcome you. You may have such of your associates as you wish at the table

with you, and we are very pleased to recognize you as you indentify yourselves for purposes of the record.

The gentleman from Indiana seeks recognition for what purpose?

While we seat our Panel of Governors, the Chair does request we do have order in the room.

The gentleman from Indiana.

Mr. SHARP. Mr. Chairman, I have a letter from the Governor of the State of Indiana to you and ask unanimous consent it be made part of the record. The letter is simply urging us to act in this matter.

Mr. DINGELL. Without objection, the letter of the Governor of the State of Indiana will be included in the record at the request of the gentleman from Indiana.

[The letter referred follows:]

OFFICE OF THE GOVERNOR,
Indianapolis, Ind., January 27, 1977.

MEMBERS OF THE INDIANA CONGRESSIONAL DELEGATION: I consider it urgent that President Carter's request for emergency authority to divert natural gas supplies to hard-hit regions of the nation be enacted by Congress as rapidly as possible.

Despite intensive conservation efforts now under way in Indiana, certain regions of the state continue to face serious problems with regard to natural gas supply. Prompt action by Congress is needed, particularly in view of the predicted deterioration of weather for the coming week. It is important that the President has the flexibility to deal with gas emergencies on short notice.

Thank you.

Kindest personal regards,

OTIS R. BOWEN, M.D., *Governor.*

Mr. DINGELL. Gentlemen, we will take you in any order you choose. I guess we should start on your left and my right, We will, therefore, recognize first Governor Briscoe of Texas and, Governor, I want you to know I received calls from almost every member of your congressional delegation, Mr. Kazen, whom you see before you. And George Mahon and a number of our colleagues, Mr. Krueger, Mr. Eckhardt, urging you receive courteous treatment.

From my association with you, I can assure you we can give you nothing else. Governor, you are recognized.

STATEMENTS OF A PANEL CONSISTING OF HON. DOLPH BRISCOE, GOVERNOR OF THE STATE OF TEXAS; HON. HUGH L. CAREY, GOVERNOR OF THE STATE OF NEW YORK; HON. BRENDAN BYRNE, GOVERNOR OF THE STATE OF NEW JERSEY; AND HON. MILTON J. SHAPP, GOVERNOR OF THE STATE OF PENNSYLVANIA

Governor BRISCOE. Mr. Chairman, I appreciate the opportunity to meet with this distinguished committee of Congress concerning this emergency legislation.

As Governor of the State which is not only the largest producer of natural gas, but is also, by far, its largest consumer, I am extremely concerned about the effect this legislation, as presently drafted, could have on the consumers of the State of Texas.

As you all well know, during the last 20 years, two separate and distinct natural gas markets have developed: The unregulated intrastate market and the unrealistically regulated interstate market. One effect this difference in regulation has laid is that for the past

few years, Texas consumers have paid up to four times as much for natural gas as have interstate consumers.

A higher price for natural gas has stimulated development of intrastate gas reserves. But perhaps more important to the attraction of risk capital than price incentives has been freedom from ever-changing regulatory proceedings and never-ending litigation which has accompanied Federal price controls.

In Texas, it has been a most painful experience, but we have developed, in most instances, a dependable supply of natural gas.

To allow gas-starved interstate pipelines to suddenly enter our intrastate market and purchase this precious commodity amounts to nothing less than allowing consumers on other States, who for years have reaped the benefits of low-cost interstate gas, to now reap the benefits of an extensive drilling program which has been financed entirely by the consumers of the State of Texas.

As we meet here today to discuss the "Emergency Natural Gas Act of 1977," I would remind the committee that the Congress has also considered the "Emergency Natural Gas Act of 1976" and that of 1975, and without any final resolution. Certainly, there is a natural gas emergency today that has existed for many years.

In my opinion, this emergency legislation proves conclusively that the regulation of natural gas by the Federal Government has resulted in a disaster of unprecedented proportions. The situation that exists today also proves once again that there is no one in or out of Government smart enough to make price controls work for the long term benefit of the consumers of this country.

Today, we see shortages prevalent in the regulated market and acceptable supply demand equilibrium in the uncontrolled intrastate system. These facts alone, I think, should be sufficient to support the contention that there are massive economic shortcomings inherent in a regulated market.

To treat this emergency legislation as a solution to the Nation's natural gas problems would, as yesterday's Washington Post editorial points out, "institutionalize the winter gas shortage as an annual event."

President Carter has clearly stated his support for the deregulation of the price of new natural gas. It is a great encouragement to me to know that the President recognizes the need to develop a long term natural gas policy which will stimulate additional production.

Emergency legislation, such as the bill before you today, as you well know, will not solve the Nation's natural gas problem. Texans have always responded in times of national needs.

Let me point out one example. In Texas, there are 1,200 holes in the bays and estuaries on State land, and 600,000 have been drilled in the ground looking for oil and gas; 250,000 of these are producing today. In addition to that, during World War II, Texas furnished 75 percent of all the petroleum products consumed by the entire allied war effort.

It seems to me the present crisis requires a national commitment. If such a crisis is to be prevented next winter and the winters ahead, quick and decisive action must be taken at the Federal level to deregulate the price of new natural gas.

I thank you for the privilege of appearing before you today.

Mr. DINGELL. Governor, we thank you for your presence and your very helpful testimony.

Our next Governor is a former colleague of ours, Governor Carey. We are honored you are with us. You are recognized.

STATEMENT OF GOVERNOR HUGH CAREY

Governor CAREY. In the interest of time I need not state we are in an emergency. I proclaimed an emergency in New York State due to the lack of availability of supplies of natural gas and other fuels. And I can only say the weather conditions there are severe and there is no anticipation that we will have relief in the foreseeable future.

When I left Albany, N. Y., the State capital, this morning, it was 14 degrees below zero. As I say, the prospect of the weather coming to our aid in terms of some relief is not one we can count upon.

I therefore, call for the swift enactment of this legislation. It does meet the emergency insofar as that emergency can be met with this kind of legislation. But I want to underscore what we are talking about here is the shutdown of industrial establishments with 8,000 factories, plants, and so forth. Already industrial establishments with nearly 100,000 employees are being shut down or have been placed out of work in a State which ranges up to consistent figures of 10 percent unemployment.

Industrial service in the western part of our State, as well as supplies for homes, has reached the condition where we are indeed in a situation where human needs are not being met and the health of our population can well be affected.

We have closed schools in the various large populations counties of our State and, therefore, the education process of the State is being impaired. The forecasts ahead, as I say, show us nothing but more severe days, and we are averaging 25 percent higher than a normal winter throughout the State, with emphasis again on the fact the winter in western New York is the worst in recent memory, frozen lakes and rivers, feet upon feet of snow and subzero temperatures. I, therefore, strongly urge the swift enactment of this legislation in the interest of public safety and welfare.

We, in New York, have done all we can at this time to cope with the condition by using the emergency powers available to the Governor in working through our Public Service Commission.

As to the bill itself, I only ask for some limited clarification of legislative intent. First, the bill refers only to the requirements of high priority users for "natural gas" and ignores the fact distributors serving these customers frequently rely upon other gas suppliers such as propane and synthetic natural gas. These alternative fuels are not considered to be natural gas as that term is defined in the Natural Gas Act. In addition, a significant number of gas consumers, who would be classified under the act as high priority users, have installed facilities for the use of alternative fuels usually oil.

It seems to me that the President would not wish to find a state of emergency in a particular area sufficient to justify his ordering emergency deliveries of natural gas without also considering the possible availability of alternative fuels for meeting the needs of high priority gas users. It would be my hope that Congress would make their in-

tention clear. Governors seeking to qualify for emergency assistance under section 4(c)1 should be required to exhaust all available fuels.

Second, compensation features included could prove unfair to consumers in States that have undertaken self-help measures to expand their supplies by installing extremely high cost LNG or SNG facilities. This could seriously undermine the incentive to conduct these types of facilities in the future. We have undertaken those types of incentives in New York State.

The bill also leaves the question of compensation for emergency deliveries of gas to negotiation between the pipelines involved; the President becomes involved only if they cannot agree. The pipeline that makes the emergency delivery may well be satisfied with the price that covers little more than \$1.42 per Mcf ceiling price fixed by the Federal Power Commission. But if the pipeline's natural gas is taken away from a distribution company that has an alternative gas supply and if that distribution company is compensated at the FPC price, while the alternative supply cost is \$4 to \$5 per Mcf, the inequity is obvious.

We ask you to consider particularly the long-run implications of any such arrangement keeping in mind there is a terminal date in this bill, and in its wisdom Congress may choose a different terminal date in order to bring about a more equitable settlement of some of the conditions I have described to you.

I hope, therefore, in order to meet emergency conditions, we will, in no way, undermine the incentives for alternative fuels and, indeed, increase, our pace of concern and incentive to reach what we have long referred to as a solution to our comprehensive national energy emergency.

I hold today, though, however, that the main purpose of my being here and the overriding concern that we must all have is that we act without delay, and I would hope that following the passage of the bill, supplemental legislation would be considered regarding intrastate supplies.

The most fundamental inequity that will remain following the enactment of the President's proposals is that should it be necessary to assist a State in meeting its priority requirements, only interstate supplies may be diverted to the areas of need.

I think it is time that we get down to the business of negotiating whatever we must negotiate to draw upon intrastate supplies, as well. That is gas that is being consumed within the producing State, particularly where that gas would otherwise be used for low priority purposes.

We are willing to pay for it. We need it and, I hope we can increase the supply of natural gas in the short order in the portion of failing inequity because people are suffering.

Thank you, Mr. Chairman.

[Governor Carey's prepared statement follows:]

STATEMENT OF HUGH L. CAREY, GOVERNOR OF THE STATE OF NEW YORK

I am here today to urge strongly the immediate passage of the President's Emergency Natural Gas Act. Our nation is clearly in the throes of an emergency—one which requires this emergency legislation. This will bill permit the President to reallocate supplies of natural gas among the States in order to ensure that shelter and other essential human needs are met in times of emergency shortages.

Until recently, due to limitations placed on the connection of new gas customers and the efforts of some of our distribution companies to provide themselves with high cost supplemental supplies of liquefied and synthetic gas, the situation in New York was relatively better than some of our neighboring States.

However, the situation has changed, and we too are in the midst of a natural gas emergency.

Due to progressive cutbacks in the supplies that we have been receiving from interstate pipelines, critical supply failures, and the persistence of abnormally cold weather, New York is now in a state of emergency, comparable to the one afflicting our neighbors.

Some 8,000 industrial establishments, with nearly 100,000 employees are either being shut down now or face the imminent threat of closing. Industrial service in western New York has been cut by as much as 75 per cent leaving only enough supplies to protect plants. A 20 per cent curtailment has been placed on commercial customers, setting thermostats to 55 degrees. Schools will be closed today and Monday. Similar cutbacks are in effect in Binghamton and Olean.

The crisis, once concentrated upstate, has now affected the downstate portions of our State. Schools have been closed in Orange and Rockland counties and industrial and commercial uses have been interrupted there and in New York City and Long Island as well.

In fact, for the next five days, with the pending weather forecasts, downstate utility companies will be curtailing industrial and commercial customers to the point of allowing only for plant and facility protection.

Normally, so called severe winters mean a natural gas requirement of 8 per cent greater than normal winters. But this year's requirements are averaging approximately 25 per cent higher than a normal winter. And the projections are for continued severe cold.

The winter in western New York has been the worst in recent memory—frozen lakes and rivers, feet upon feet of snow, and sub-zero temperatures.

In addition to these frightening facts, the most concrete and convincing evidence that I can personally offer in support of the President's proposal is that yesterday evening I declared a natural gas emergency in New York State.

Recognizing that our supply situation was deteriorating rapidly with implications for the public safety and welfare, I directed that priority be given to shelter and other basic human needs. Further, I directed the Public Service Commission to maintain a 24-hour free telephone service so that it could respond to emergency situations.

The situation in New York and throughout the country clearly indicates that the need for the President's national legislation is paramount. If we had time for scholarly reflection some changes might be in order. However, the critical need of our people demand that the President's legislation be passed immediately.

Today, therefore, I only ask for some limited clarification of legislative intent.

First, the bill refers only to the requirements of high priority users for "natural gas," and ignores the fact that distributors serving these customers frequently rely upon other gas supplies, such as propane and synthetic natural gas. These alternative fuels are not considered to be natural gas as that term is defined in the Natural Gas Act. In addition, a significant number of gas consumers who would be classified under the Act as high priority users have installed facilities for the use of alternative fuels, usually oil.

It seems to me that the President would not wish to find a state of emergency in a particular area sufficient to justify his ordering emergency deliveries of natural gas, without also considering the possible availability of alternatives fuels for meeting the needs of high priority gas users in that area. It would be my hope that Congress would make their intention clear. Governor seeking to qualify for emergency assistance under Section 4(c)(1) should be required to exhaust all available fuels.

Second, the compensation features included could prove unfair to consumers in states that have undertaken self-help measures to expand their supplies by installing extremely high-cost LNG or SNG facilities. This could seriously undermine the incentive to construct these types of facilities in the future.

The bill also leaves the question of compensation for emergency deliveries of gas to negotiation between the pipelines involved; the President becomes involved only if they cannot agree. The pipeline that makes the emergency delivery may well be satisfied with a price that covers little more than the \$1.42 per mcf ceiling price fixed by the Federal Power Commission. But if a pipeline's natural gas is taken away from a distribution company that has an alternative gas supply and

if that distribution company is compensated at the FAC price while its alternative supply costs its consumers \$4 to \$5 an mcf, the inequity is obvious.

Consider particularly the long-run implications of any such arrangement. In the future, will any distribution company undertake the high costs of providing itself with supplemental capacity, whose very purpose is to provide backup supplies in case of need, if they know that as the need becomes extreme, it will be denied a corresponding amount of much cheaper gas from the interstate pipelines. And what public utility regulatory commission would permit the customers of such a company to be so burdened.

Certainly one of our most important long-run solutions to the desperate natural gas shortages is to encourage gas suppliers to invest in additional supplemental supplies. It would be tragic if, in order to meet emergency situations, we seriously undermined their incentives to do so. I urge, therefore, that you make clear your intent that compensation be at the cost of alternative fuel supplies.

However, my final concern cannot be corrected simply with a statement of Congressional intent. Nevertheless, I still ask that you pass this emergency measure now. But following its passage, supplemental legislation should also be considered regarding intrastate supplies.

The most fundamental inequity that will remain following the enactment of the President's proposal is that should it be necessary to assist a State in meeting its high priority requirements, only interstate supplies may be diverted to the areas of need. During times of genuine emergency, the President should also be authorized for the duration of the emergency, to draw upon intrastate supplies as well—that is gas that is being consumed within the producing states—particularly where that gas would otherwise be used for low priority purposes. The present bill, in short, does not go far enough in embodying the principle of equality of sacrifice in time of emergency among all the people in the country.

However, no reservations that we may have regarding this bill should stand in the way of its immediate enactment.

It is my understanding that the Senate may pass the President's proposed legislation this afternoon. I would also hope that the House of Representatives will choose to suspend its rules to enable the most speedy enactment of the President's proposal.

This bill must be passed and it must be passed now. Later, changes and additions can be left to the wisdom of the Congress with the luxury of more time for deliberation. However, that time is a luxury we do not have today. This is emergency legislation which begins to meet an immediate and perilous crisis that could affect the safety, well being, and jobs of our people.

As I stated earlier, the situation in New York State is of critical proportions. I have already declared a natural gas emergency in our State.

However, this is truly a national emergency that must be met with the President's national legislation. Speed is of the essence. The children in our schools, the workers in our factories, the people in their homes and apartments cannot wait. The President's proposal must be enacted—and enacted today.

Mr. DINGELL. Governor, thank you.

Our next panel member is Governor Byrne.

STATEMENT OF GOV. BRENDAN BYRNE

Governor BYRNE. Thank you for the privilege of addressing this committee this morning.

I believe the first judgment that has to be made by all of us—and especially this committee in the Congress—is whether there is an emergency. If there is no emergency, there is no need to act. If the emergency is a minor one, we can afford to act with caution. If the emergency is a major emergency, I think we have to act with daring and we have to act in a war-room atmosphere.

I suggest, as other Governors have testified, that given the situation which exists in New Jersey and in other contiguous States in the Northeast and the central regions of the United States, that we must approach this situation with daring.

That daring must include a broad program for the conservation of the existing supply of natural gas. It must include the authority to mobilize the entire existing supply of natural gas; as well to provide incentive for the distribution of a supply of natural gas, and I underscore the need to include intrastate gas in that concept.

It must include a plan for the distribution of that supply, and it must include some concept of pricing all of that supply so that there is no gouging as a result of a temporary, hopefully a temporary, dire emergency.

I suggest, therefore, that although the legislation before the Congress is pursuant to a wise and well-intentioned objective enunciated by the President, that there are some things that ought to be added consistent with the problem as I have defined it.

The President's authority to allocate natural gas supplies under this bill should be extended to intrastate pipelines. Second, the President ought to consider promptly allowing the Federal Government to take its royalty share of natural gas produced from public lands in kind.

In other words, instead of a dollar royalty, to take that royalty in kind, in natural gas and in that, a royalty share which would immediately be available for allocation or reallocation. The President has that authority now.

To insure that no one profits unreasonably from the misfortune of this natural gas shortage and to avoid a bidding war that will quickly escalate the price of available intrastate supplies, the bill should be amended to set a ceiling price of intrastate gas sold during the emergency. The present maximum rate for gas sold in interstate commerce is \$1.44 per Mcf, a figure which the Federal Power Commission states it allows for an 18-percent return on equity.

I suggest that such a price, or at most, the actual cost of production plus an 18-percent return, would be fair and equitable.

Finally, I do not think these synthetic supplies of fuel which States have provided or which utilities and States have provided, sometimes at high costs to supplement existing supply of fuel or gas, ought to be included in allocation orders, especially if intrastate gas is not included in the allocation orders.

I do believe this problem has to be solved in an overall evaluation of what our fuel supply is. In that regard, I would suggest that the abandonment of regulation and allocation of middle distillates ought to be reconsidered by the Federal Government.

We stand ready as a State to cooperate in all of these efforts. We are constantly on an hour-by-hour basis having to make judgments as to whether to cease employment by closing factories, and cease education by closing schools, and I suggest that a proper bill from this Congress ought to include those few items which I have outlined in this testimony.

Thank you, Mr. Chairman.

Governor Byrne's prepared statement follows:

STATEMENT OF GOVERNOR BRENDAN BYRNE, STATE OF NEW JERSEY

Good morning. I am Brendan Byrne, Governor of New Jersey. In my judgment, President Carter has defined the correct objectives in submitting to you this draft legislation—that is to minimize and equalize the burden of the current natural gas shortage on the citizens of our country.

Yet I fear that this legislation does not accomplish what the President has wisely attempted to do. In that context I urge the following:

The President's authority to allocate natural gas supplies under this bill should be extended to intrastate pipelines and they should be ordered to institute curtailment plans—similar to those already in use among interstate pipeline users. That change would enable a more equitable allocation among priority uses throughout the country.

I would also urge the President to consider allowing the federal government to take its royalty share of gas produced from public lands in kind and, thus, immediately begin redistributing that one-sixth share of gas among the interstate pipelines.

To insure that no one profits unreasonably from the misfortune of this natural gas shortage and to avoid war that will quickly escalate the price of available intrastate supplies the bill should be amended to set a ceiling on the price of intrastate gas sold during the emergency. The present maximum rate for gas sold in interstate commerce is \$1.44 per thousand cubic feet, a figure which the Federal Power Commission states allows for an 18 percent return on equity. I suggest that such a price, or, at most, the actual cost of production of intrastate gas plus an 18 percent return, would be a "fair and equitable" rate envisioned in the bill and, as such, should be the statutory ceiling on emergency sales.

Finally, I don't think that synthetic natural gas produced in New Jersey from naphtha should be counted in our available supplies. SNG represents an extremely expensive source of energy designed for use only as a peaking supply. To do otherwise would expose those utilities with the foresight to construct peaking facilities to even more disastrous shortages in the event of a breakdown of such a facility. And, there would be little incentive for future development of higher cost sources of energy.

Mr. Chairman, we made it through the oil embargo by working together. The discomfort of waiting in a long line at the gasoline station is nothing compared to the suffering families will experience if they are forced to evacuate their homes because of lack of heat. In order to prevent that, you must be willing to meet President Carter's mandate to act quickly and decisively, and I believe that my recommendations will assist that goal.

Mr. DINGELL. Thank you, Governor.

Governor Shapp, we are pleased you are with us.

STATEMENT OF GOV. MILTON J. SHAPP

Governor SHAPP. Mr. Chairman, members of the committee, I greatly appreciate this opportunity as Governor of the Commonwealth of Pennsylvania to testify before this committee.

I am here to testify in favor of passage of the Emergency Natural Gas Act which would authorize the President to order emergency deliveries of natural gas across State lines to areas suffering critical shortages.

I stated so at a press conference yesterday at Harrisburg. However, I am disappointed that they do not have in this act gas for industries, nor do we have priorities set for the use of gas.

The situation in Pennsylvania has reached crisis proportions, triggered primarily by the natural gas shortage. In the past week and a half, I have issued two proclamations of extreme emergency.

On January 17, I appealed to homeowners and commercial establishments in my State to cut back on their energy consumption.

Pennsylvania now has coal being used for 43 percent of its total energy needs, and we are still protecting the environment. We have ordered conversions to coal in many places in recent years, and I might add that in one place, New Cumberland Army Depot in 1972 went from coal to natural gas over my objections.

The gas shortage has been aggravated by a long and severe winter that has drained all energy sources. Unfortunately, much of our oil is

delivered by barges on the Ohio River and these barges lie stranded on the frozen water.

On January 26, with many plants shutting down and others threatening to be closed because of lack of fuel, I ordered all primary and secondary schools closed in Pennsylvania. Last night, I went on state-wide television and asked that all restaurants, all museums and libraries, sporting events, and other nonessential activities be curtailed at least until next Monday noon.

I am informed now that a new blizzard is sweeping in from Canada across Erie heading to the rest of the State.

We estimate that 75,000 to 100,000 people have been laid off their jobs in the past few days because of the fuel shortage. We face the prospects of hundreds of thousands more workers being thrown off their jobs within the next 10 days. We have closed schools. This is a drastic action, but it is a matter of these children staying home or their parents put out of work.

I believe we chose the lesser of two available evils. I hope when we get through this crisis, though, we establish a national energy policy that will spare us this kind of devil's choice in the future.

Not since the OPEC situation developed in 1973 has this Nation moved in that direction to establish an energy policy and no policy exists

I consider the Emergency Natural Gas Act of 1977 a measure necessary to get us through the current crisis. We are told the gas is simply not there. One of Pennsylvania's suppliers, Columbia Gas, had issued orders that all supplies to industries were to be terminated February 1. I am disappointed that Mr. Dunham, when he was here at the table just a few moments ago, refused to ask the question put to him about diversion of Canadian gas because some of the gas in the pipeline was due to go to Columbia Gas Co. and would have helped us. How long we can forestall closing of our factories depends upon how soon we are going to be resupplied with fuel.

Implicit in the bill before you is the fact that gas prices will go up. The act will permit the reallocation of intrastate gas and the purchase of interstate gas by Pennsylvania companies at higher prices if the President considers our need to be critical.

I would follow my colleagues, Governor Carey and Governor Byrne and hope that they would also include the intrastate regulation as part of this bill.

Deregulation of natural gas prices would be temporary ending with the expiration of the act on April 30. I must admit deregulation of natural gas prices, even temporarily, is a bitter pill for me to swallow. Since this is our only option at the moment, swallow it I must. However, I will speak about that more in just a moment.

In anticipation of natural gas prices rising above the regulated ceilings, I have asked our Pennsylvania congressional delegation and the President to consider providing emergency income assistance to low-income families. Their fuel and utility bills are already soaring because of the severe winter. Higher gas prices will be an even greater problem.

The simple way to solve this problem is to issue more food stamps to low income families and the elderly and allow the use of these food stamps to pay for utility and fuel bills as well as food.

I have also written to the President asking that as soon as the Emergency Natural Gas Act is enacted, that he declare a state of emergency to exist in Pennsylvania so additional natural gas can be made available.

I am submitting documents to show Pennsylvania has done all it can to locate, reallocate, and conserve its fuel resources. For example, the drastic closing of schools is saving an estimated 14 million cubic feet of gas every day.

However, having said all this, now, I want to emphasize the new power Congress may grant President Carter will not solve our problems either now or for the future. With enactment of the emergency natural gas bill, I would anticipate and hope that there be an investigation by the President to get at the truth of the fuel situation and energy situation in this country.

Fourteen months ago, I met with 10 other Governors at the White House with President Ford. I told them that I had read reports that gas was deliberately being withheld from the pipelines in the producing States. I said that some gas fields actually had been capped. I asked President Ford to conduct a White House investigation of this situation rather than leave it in the hands of the Federal Power Commission. He refused.

The people of Pennsylvania and indeed, the people of all our energy afflicted regions, have the right to know if the current shortage is real or contrived. We want to know if producers like OPEC oil barons are simply holding out for higher prices. Yes, we want to know if higher prices are really justified or whether American fuel suppliers are copying OPEC's tactics.

Frankly, I am disturbed by the gas company ads I have seen in recent days that indicate if you raise the price, the gas will flow. For if that is really the case, we are indeed being blackjacked, and I want an investigation into the matter. More specifically, I want such an investigation carried on independently of the Federal Power Commission. There has been too much criticism of the FPC being tied to the interest of the energy companies for the public to have confidence in any actions taken by that body.

The Carter administration will be forced to make broad decisions, and public confidence is needed if those decisions are to be backed.

I would like to read into the record, Mr. Chairman, an advertisement that appeared in the Wall Street Journal on Monday, January 10. I will read this advertisement. In a big box, "Natural gas for sale now. Fifty billion cubic feet of natural gas available, some now, more in December 1977. Can be moved to industries via interstate pipelines. Let us know your needs, and we will tell you how we can supply you. Write to Box D-357, the Wall Street Journal."

This amount of gas is one-seventh of the total amount of gas that Chairman Dunham said could be saved by turning thermostats down to 65 degrees. It is one-sixth of the total amount of gas used in Pennsylvania for home heating purposes available off the market somehow by some body who probably has it for sale at a high price.

Eventually, we must formulate a natural energy policy that will not permit price fixing or the withholding of fuel supplies to drive prices higher. For if these practices are found to exist, they are certainly not in the public interest. There are many indications our energy sources are under the control of interlocking directors with the

same directors or their corporate partners sitting down on the boards of gas, oil, coal and other energy companies, as well as on the banks and other financial institutions which supply these companies with their money. Thus, a utility can wink at a fuel price increase since the same interests are sharing in the profits and passing the cost on to the public in the form of fuel adjustment charges.

Higher prices for coal is driving the cost of fuel adjustment charges to our utility companies. I want to add that during the past 2 years alone, fuel adjustment costs passed on to the consumers in this Nation have totaled over \$5 billion, which is equal to a sum in which the State of Pennsylvania operates its budget.

I do not want to digress too much, except to say that an investigation of our energy supply system is as necessary in the long run as immediate passage of the emergency natural gas bill is to alleviate our current crisis.

I hope the Carter administration will make as one of its highest priorities a study of this entire energy situation, adopt an energy policy for the future strength and the safety, and well being of the citizens of this Nation depend upon such action.

Mr. Chairman, thank you very much for the opportunity of expressing my views.

[Governor Shapp's prepared statement follows:]

STATEMENT OF HON. MILTON J. SHAPP, GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA

Mr. Chairman, I am Milton J. Shapp, Governor of the Commonwealth of Pennsylvania. I am here to testify in favor of passage of an Emergency Natural Gas Act which will authorize the President of the United States to order emergency deliveries of natural gas across State lines to areas suffering critical shortages.

The situation in Pennsylvania has reached crisis proportions, triggered primarily by a natural gas shortage. In the past week and a half, I have issued two proclamations of extreme emergency.

On January 17, I appealed to homeowners and commercial establishments in my State to cut back on their energy consumption. I also called upon the Public Utility Commission to order an equitable redistribution and reallocation of natural gas, electricity and other forms of energy to insure public health and safety.

The gas shortage has been aggravated by a long and severe winter that now has drained all energy sources. Much of our oil is delivered by barges on the Ohio River. These barges lie stranded on the frozen river.

On January 26, with many plants shutting down and others threatening to close because of a lack of fuel, I ordered all primary and secondary schools closed in Pennsylvania. We estimate that 75,000-100,000 people have been laid off their jobs in the past few days because of the fuel shortage. We faced the prospect of hundreds of thousands more workers being thrown off their jobs within the next 10 days.

Closing our schools for three days or possibly longer is a drastic action. But it was either a matter of the children staying home, or their parents being put out of work. I believe we chose the lesser of two real evils. I fervently hope that when we get through this crisis, we develop a national energy policy that will spare us this kind of devil's choice in the future.

I consider the Emergency Natural Gas Act of 1977 a measure necessary to get us through the current crisis. The gas is simply not there. One of Pennsylvania's suppliers, Columbia Gas, had issued orders that all supplies to industry were to be terminated February 1. By closing the schools we hope there can be a sufficient reallocation of gas at least to maintain plant protection levels. How long we can forestall wholesale closings of plants depends on how soon we can be resupplied with fuel.

Implicit in the bill before you is the fact that gas prices will go up. The act will permit the reallocation of intrastate gas and the purchase of interstate

gas by Pennsylvania companies at higher prices, if the President considers our need to be critical.

Deregulation of natural gas prices would be temporary, ending with the expiration of the Act on April 30. I must admit deregulation of natural gas prices, even temporarily, is a bitter pill for me to swallow. But since this is our only option at the moment, swallow it I must.

In anticipation of natural gas prices rising above the regulated ceilings, I have asked our Pennsylvania Congressional delegation and the President to consider providing emergency income assistance to low income families. Their fuel and utility bills are already soaring because of this severe winter. Higher gas prices will be an ever greater burden.

A simple way to solve this problem is to issue more food stamps and allow their use to pay utility and fuel bills.

I also have written to the President asking that as soon as the Emergency Natural Gas Act is enacted that he declare a state of emergency to exist in Pennsylvania so that natural gas can be made available to us.

I am submitting documents to show that Pennsylvania has done all it can to locate, reallocate and conserve its fuel resources. For example, the drastic action of closing our schools is saving an estimated 14 million cubic feet of gas every day. Now we must rely on federal action.

I want to emphasize that the new powers Congress may grant President Carter will not solve our problems completely, either now or for the future.

With enactment of the emergency natural gas bill, I would anticipate an investigation by the President to get at the truth of the fuel situation. The people of Pennsylvania and, indeed, the people of all our energy-afflicted regions have the right to know if the current shortage is real or contrived. We want to know if producers are simply holding out for higher prices. We want to know if higher prices are really justified, or whether American fuel suppliers are copying OPEC's tactics.

Frankly, I am disturbed by gas company ads I have seen that say if you raise the price the gas will flow, for if that is really the case, we are indeed being blackmailed and I want an investigation into the matter.

More specifically, I would want an investigation carried on independently of the Federal Power Commission.

Eventually, we must formulate a national energy policy that will not permit price fixing or the withholding of fuel supplies to drive prices higher, if these practices are found to exist. There are indications that our energy sources are under the control of interlocking directorates, with the same directors or their corporate partners sitting on the boards of gas, oil, coal and other energy companies, as well as banks and other financial institutions. Thus, a utility can wink at a fuel price increase since the same interests are sharing in the profits, and passing the cost on to the public in the form of fuel adjustment charges.

I don't want to digress too much except to say that an investigation of our energy supply system is as necessary in the long run as passage of the emergency natural gas bill is to alleviate our current crisis.

It is important to note that since this country first became aware of an energy crisis in 1973, we have failed to develop a comprehensive energy policy. Now the citizens in my state, indeed all Americans, are the victims of this lack of an energy policy.

We desperately need a rapid expansion of research into developing environmentally pure energy sources—harnessing the sun, the tides and the wind. We must study methods of heat exchange and research cracking underground coal economically to extract methane gas before wasting it in the mining process. And in our eastern states, we must perfect processes for removing sulfur from coal to meet clean air standards.

Such research would make us less dependent on foreign oil and natural gas and lessen threats to our economy by the OPEC nations and our own oil and gas companies. And I am confident that such research can be accomplished within a short amount of time. The ingenuity of American scientists and researchers speaks for itself. We have only to set the projects in motion.

I would like to compliment President Carter and his new administration most sincerely for their rapid response to our current crisis. It has been little more than a week since President Carter was sworn into office and now he faces a job-destroying energy crisis that is being stamped onto an already bad unemployment situation. His swift response has given us proposed legislation that will be a critical first step in extricating ourselves from this energy shortage. I urge you to enact this legislation swiftly.

Thank you.

Mr. DINGELL. Governor, the committee thanks you for your presence and your very helpful testimony.

The Chair is going to extend courtesy to some of my colleagues who are members of the full committee but not members of the ad hoc committee. The Chair is going to recognize the gentleman from Texas, Mr. Eckhardt, for brief comments and questions.

Mr. ECKHARDT. We are certainly glad to have you, Governor Brisco. I know you have given a lot of careful thought to this question long before this hearing. We are glad to have your comments here.

Governor, I can understand some of the feeling of those from areas north of us. I was thinking, when I came to this hearing, of Thornton Wilder's plan, "The Skin of Our Teeth." I just happen to have the book. It says, "Mrs. Antrobus: What about this cold weather? Telegraph Boy: Of course, I don't know anything but they say there's a wall of ice moving down from the north, that's what they say. We can't get Boston by telegraph, and they're burning pianos in Hartford. Mrs. Antrobus: What are people doing about it? Telegraph Boy: Well, uh, talking mostly."

I suppose some of the Governors here feel we are talking mostly, that we ought to do something. But I would hope they will also understand our problem, particularly, with respect to section 6 of this bill. Because I think it is also their problem.

That is, if we permit a mix of new high price gas without control into the total interstate mix, it could carry a price around \$3 or more. And ultimately, if we set that pattern until August 1st, it seems to me our Northern friends are going to be in the long run in the same position that we in Texas will be in immediately.

It would tend to bid up the price of intrastate gas from a present figure of about \$1.75 average last year to \$3 or more. Perhaps we could solve that and perhaps we could find some agreement in this panel on that proposition. Would you care to comment on that general subject?

Governor BRISCOE. Mr. Chairman, Congressman Eckhardt, I think from earlier discussions with you, you are working on some amendments that would help take care of that situation. It is a very real problem, the triggering of renegotiations of existing contracts, the upping of prices in the intrastate market. This is what concerns me about this legislation as presently drafted, the effect it would have on the consumers of Texas, who have been paying in many cases about four times as much for natural gas as those receiving natural gas from the interstate lines and in the interstate market have been paying.

I would not like to see that compounded.

Mr. ECKHARDT. What has been thought about in this connection is in section 6—I address these remarks to the other Governors as well—is a provision permitting reasonable prices to be charged for intrastate gas moving into interstate commerce with a definition of reasonable prices as meaning, (a) the average new contract price for 1976 in a particular State in which the gas is produced or, (b) a price not more than 30 percent higher than that provided in (a) above if the President finds that such high price is necessary to effectuate the purposes of this act.

Now, that would permit prices at around \$2.14 at the highest rate, but would prohibit the price from going, say, to \$3, \$4 or any figure. I

would think that would be very helpful to Texas. Would you not feel that to be the case?

Governor BRISCOE. Yes.

Mr. ECKHARDT. I wonder if Governor Shapp of Pennsylvania might also have some concern, too, about some control on the price of gas flowing in from intra- to interstate markets?

Governor SHAPP. I indicated that I support what Governor Carey and Governor Byrne have suggested and that the intrastate gas be regulated the same as interstate.

Mr. ECKHARDT. That might be a little stiff. You might not get much gas that way. I would like to move that way myself, but I am trying to work out some practical solution.

Governor SHAPP. If you are just talking price regulation, it might be one thing, but if you are talking about allocation on a fair and equitable basis, as we are going to have to do in this Nation, because we are in short supply on many things that there be allocation just like we have for gasoline a few years ago, then, true, the price might come up.

As I indicated in my statement, I expect the results of this bill will be to have higher prices, but at least it would then be on a fair, equitable basis clear across the country without one State having the rest of the States by the neck.

Mr. ECKHARDT. Governor, I was not suggesting that we eliminate the provisions of section 4 of this bill that deal with allocation.

Mr. DINGELL. The time of the gentleman from Texas has expired. The Chair thanks the gentleman.

The Chair observes we have here also the members of the committee who do have their Governors present. The Chair observes Mr. Walgren is present.

Mr. WALGREN. I certainly want to say my thanks to the Governors, particularly Governor Shapp, for representing the people of Pennsylvania Here. I think Governor Shapp's statement goes well beyond the current crisis, but that we are faced with what may very well be a Hobson's choice in the near term. I hope that in the amending of this bill and the consideration of the bill that the committee gives, we can consider some of the very direct relief or provide for some direct relief for people who are living on fixed incomes that are going to suffer because of the crisis that we are presently facing. So, I particularly want to thank my Governor for bringing that point so clearly to the front.

Mr. DINGELL. The Chair observes we have here Mr. Marks, a member of the committee. We recognize you and welcome your Governor.

Mr. MARKS. May I also welcome you, Governor Shapp, and the other Governors this morning and say we appreciate what you have done in this crisis. The fact you have worked so steadily and so very hard to alleviate the condition, I can assure you we members of the Pennsylvania delegation, both on and off this committee, are going to be working day and night to see to it we give you some help from down here. We appreciate very much you coming down and wish you good health.

Mr. DINGELL. The Chair thanks the gentleman.

The Chair observes we have here also Mr. Kazen.

Mr. KAZEN. Thank you, Mr. Chairman.

In trying to save time, I would rather have the committee have the time. I will have my chance later.

Mr. DINGELL. The Chair thanks the gentleman.

Mr. Pattison, one of our colleagues, also a Member of the House, but not a member of the committee.

Mr. Hughes? Mr. Hughes was here a minute ago.

Governor BRISCOE, I observe with certain curiosity your position here. You express opposition and concern to segments of the emergency bill, your support for deregulation. I am curious; your opposition to the bill seems to lie on the grounds it would deregulate certain purchases coming out of the intrastate market in Texas and other States and at the same time, you express concern over the consequences of interstate pipelines bidding for supplies of intrastate gas and yet, I observe the same results would occur under deregulation which you appear to support.

You have those two threads in your statement. I am curious. They seem to be a little dissident when I read them.

Governor BRISCOE. Mr. Chairman, the temporary relief offered in this temporary legislation would in no way attract additional risk capital to finding new reserves. The point I would like to make is, to find those new reserves, to bring them into production requires confidence in the future as to the Federal Government not being in the regulatory procedure that it has been in since 1954.

I think the situation that exists today has been pointed out in many, many studies that have been made, even going back to the Paley Commission of 1952, which was appointed by President Truman and reported back to President Eisenhower.

This bill would give no incentive to find additional reserves. It would not, in any way, encourage the drilling of another well. In my opinion, once again, as we have discussed in the past, that could be done only through the deregulation, and by that, it would have to be on a permanent basis to attract the necessary risk capital to find new reserves.

Mr. DINGELL. I think your comments point out, we do not have a simple, easy solution to your problem. I am forced to the conclusion that deregulation poses many of the same problems, including stresses and strains on the intrastate market, which would be penetrated by a very large market demand from the interstate market.

Governor BRISCOE. Mr. Chairman?

Mr. DINGELL. Yes.

Governor BRISCOE. Pardon me, go right ahead.

Mr. DINGELL. Go right ahead. You had a comment.

Governor BRISCOE. I was going to comment this: I have stated at the National Governors' Conferences, from the point of view of a producing State, there are disadvantages to that State to deregulation, and we have to recognize that. But at the same time, I think it is the only national policy that will produce additional supplies of natural gas for all of this Nation.

Mr. DINGELL. I thank you.

The Chair recognizes the gentleman from Indiana, Mr. Shapp.

Governor SHAPP. I would like to submit this for the record, Mr. Chairman.

Mr. DINGELL. It will be inserted in the record. The Chair has received a large number of communications from colleagues and interested citizens.

Without objection, they will be inserted in the record at the appropriate place.

[The document referred to follows:]

GOVERNOR'S STATEMENT AT PRESS CONFERENCE, JANUARY 27, 1977

The following is a statement issued at a press conference this morning by Governor Milton J. Shapp:

This morning I am forwarding to Washington applications for relief for Pennsylvania in two separate categories.

First, I am asking President Carter to divert natural gas supplies to critical areas of Pennsylvania from less hard-hit areas of the country.

This petition follows the action taken yesterday by the administration in sending to Congress an emergency powers bill.

Congressional leaders believe this bill can be passed and signed by early next week and it is my feeling that action under this new law will provide the quickest and most effective relief for Pennsylvania. I am also contacting each member of the Pennsylvania congressional delegation and urging their support for this vitally needed measure.

In addition, I am asking that Congress and the President give most serious consideration to providing emergency income assistance to low income families who are being hard-pressed by rising fuel and utility bills during this severe weather.

Under the new administration bill, Washington contemplates allowing purchase of natural gas at prices above the regulated ceilings. This will further aggravate the situation for those low income families, and any action to allow higher prices should be accompanied by consideration of the effect this will have on those families.

I want to emphasize that the new powers congress is preparing to grant President Carter will not solve our problems completely for either the short haul or the long range. But I did find a positive attitude in Washington yesterday and I am optimistic that with cooperation from the federal government, and from businesses and residents here in Pennsylvania, we will be able to get through this crisis.

As an example of the efforts already being made, the action I took yesterday in closing our schools will save an estimated 14 million cubic feet of gas every day.

Columbia Gas had already issued orders that all supplies to industry were to have been terminated February 1st. Under this situation, many of our industrial plants would have gone out of business, and others—particularly steel and glass plants—would have taken several weeks to get back into operation when supplies of gas were finally restored. Hundreds of thousands of Pennsylvanians could thus have been unemployed for lengthy periods.

I am told that by reallocating this gas, our industrial plants may not be able to continue production at this time, but they will be able to maintain plant protection levels so that plant rehiring will be facilitated when new sources of gas are available.

This crisis is by no means passed, in fact the most severe test may come this weekend. But with continued operation throughout the State, we hope to avoid any major disruptions.

Mr. DINGELL. The chairman recognizes the gentleman from Indiana, Mr. Sharp.

Mr. SHARP. I wonder if the Governor from Texas would wish to express himself on the question of whether we should allow, as the bill will allow, the passage of gas through an intrastate pipeline in order to move it more efficiently from the source to the interstate pipelines, obviously a temporary emergency purchase operation. I do not believe your testimony got into that question. I understand it is going to become an issue either in our committee or the Senate.

Governor BRISCOE. The movement of interstate gas through an intrastate pipeline and thereby not, as it would now, subject the intrastate pipeline to Federal Power Commission regulation. I think the bill would provide that that would not be the case.

I would think that could be done without it being mandatory if the legislation provided that it would not subject the intrastate pipeline to becoming subject to Federal regulation.

Mr. SHARP. It is my understanding this legislation clearly states that no provisions of this bill shall force anything outside the jurisdiction of the Federal Power Commission to suddenly come under the jurisdiction of the Federal Power Commission for all time, which is the natural fear of any intrastate pipeline or producer.

If I understand you then, given that safeguard, there is no real difficulty in your mind of using the intrastate pipeline where there is excess capacity, obviously, not in place of the passage of intrastate gas that is needed?

Governor BRISCOE. I can see no problem with that, sir. If it actually is effective, if the intent of Congress is effective and the courts did not hold otherwise.

Mr. SHARP. Thank you, Governor. I appreciate your testimony and the other Governors. I yield back the rest of my time, Mr. Chairman.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes now the gentleman from Ohio, on his own time.

Mr. BROWN. Governor Briscoe, you indicated you think this bill is not going to be effective in resolving the national energy emergency we now face. You say President Carter has clearly stated his support for the deregulation of new natural gas. Why do you suppose he has not come forward with a restatement or a statement of that policy?

Governor BRISCOE. I could only, of course, base the statement that I made upon the statements made by Governor Carter during the campaign.

Mr. BROWN. Are you referring to the Boren letter?

Governor BRISCOE. Yes; exactly.

Mr. BROWN. Any other commitments made in that area?

Governor BRISCOE. The policy statements made in Texas on several occasions, the letter you referred to, a letter also sent to me,¹ and I think to other Governors which is a very clear and very positive and I think a very fine statement of the resolution of the national gas shortage on a long-term basis.

Mr. BROWN. But you do not know why he prefers this short-term approach which you think will not address the problem adequately?

Governor BRISCOE. No, sir, I cannot answer that.

Mr. BROWN. Governor Byrne, 16 months ago when you testified before this committee, you said, and I quote:

I support in this statement the 180-day concept of allowing major consumers of natural gas to purchase on the intrastate concept—

Free market—

I try to then make some distinction between the short-term solution to the critical problems that affect our State and the Nation and the short-term and the long-term solution. I urge, in making that point, that the Congress, the administration and the people of this country not panic into using a critical situation in 1975-76 for an ill-conceived and improper long-term solution to the natural gas problem that we have in this country.

¹ See letter dated Feb. 28, 1977, with attachment, p. 168.

That was 16 months ago. You went on to say:

I think the price spread between interstate gas and intrastate gas is now sufficient that we would be justified, and I think your committee chairman has a bill to this effect, we would be justified in holding that price by legislation.

The price was then 52 cents in interstate markets, and the intrastate market was then \$1.60; that is a spread of \$1.08.

Now the price allowed by the Federal Power Commission is \$1.42 in the interstate market and \$2 in the intrastate market. You support now with your testimony a price ceiling of \$1.44. Do you think that is the price at which we will get sufficient gas, or has your position changed in some way?

Governor BYRNE. I do not think it has changed. I think the Federal Power Commission pricing as of today allows for an 18-percent return on equity. I think an 18-percent return on equity ought to be sufficient incentive to explore for natural gas.

Mr. BROWN. Then we do not need the short-term measure; is that correct?

Governor BYRNE. Let me tell you what I think, and then you can conclude what you want. I think there is presently incentive to explore. I spent a couple of days this week down in Houston. I think they are exploring for natural gas. I think they are then making the judgment as to whether to put it in an intrastate market or interstate market.

Mr. BROWN. You said, though, 52 cents was sufficient 16 months ago for that too, did you not?

Governor BYRNE. Yes. I think if 52 cents represented an 18-percent return on equity, that certainly was sufficient.

Mr. BROWN. Maybe we ought to keep the price at 52 cents and never mind the \$1.42 that the Federal Power Commission says is appropriate.

Do you think the emergency is now sufficient that we ought to look at the long-term solution, or should we just go for a short-term answer?

Governor BYRNE. I think we ought to look for a long-term answer.

Mr. BROWN. Thank you, Governor.

Governor CAREY, I have an ad that is not the same ad as Governor Shapp's. It reads: "Natural gas to burn for industrial use. For membership in the exclusive Auburn Industrial Country Club Park contact Mayor Paul W. Lattimore, Chairman, Auburn Industrial Development Authority, Memorial City Hall, Auburn, N.Y." And then a phone number. Does that infer that there is plenty of natural gas in Auburn, N.Y., or in the State of New York?

Governor CAREY. Auburn's mayor, Mayor Lattimore, has been a very venturesome mayor and is very knowledgeable on energy matters. He has a limited supply of local natural gas from a basin in that very limited area.

Mr. BROWN. At what price would he sell that to us in Ohio—

Governor CAREY. I do not think he has enough to sell it to Albany County, let alone to Ohio.

Mr. BROWN. But he is advertising.

Governor CAREY. Mayor Lattimore is a venturesome man who has attracted industry to his city and his area. He has been able to do it because of his promotional efforts. But that does not indicate that we have a surplus of natural gas, excepting in that limited basin area. By using that, he has been able to attract building of a Japanese-financed—

Mr. BROWN. Do you know the price of the natural gas he has available?

Governor CAREY. I have no idea—

Mr. BROWN. Is it intrastate or interstate?

Governor CAREY. It is intracounty.

Mr. BROWN. So it has a market price, is that right?

Governor CAREY. He has a market price.

Mr. BROWN. Is it available at a market price, but you are short in the interstate market?

Governor CAREY. Of course.

I point out also, as I mentioned in my testimony, we have gone to what Governor Byrne called the exotic fuel. Huge investments have been made to bring in SNG, and that is being fed—

Mr. BROWN. At what price?

Governor CAREY. At cost much above the interstate price at this time.

Mr. BROWN. Are they above the intrastate, the present market price?

Governor CAREY. Yes.

Mr. BROWN. Could you tell me what they are?

Governor CAREY. \$4 to \$5.

Mr. BROWN, and you are filling in your shortage of natural gas with \$4 to \$5 of synthetic gas?

Governor CAREY. Yes, and we are running out of that very quickly.

Mr. DINGELL. The time of the gentleman from Ohio has expired.

The Chair recognizes now the gentleman from Texas, Mr. Krueger.

Mr. KRUEGER. Thank you, Mr. Chairman.

We are very pleased to have you here, Governors, and in particular I have great personal pleasure in seeing you here, Governor Briscoe.

I would like first to look at the testimony of Governor Byrne of New Jersey, because I see, Governor Byrne, in your testimony that you say you would like to see \$1.44 per thousand cubic feet be the statutory ceiling on emergency sales of natural gas.

In your next paragraph you proceed to say that you think that synthetic natural gas, which you have produced at great capital investment cost, should not be counted in with your total supply, because that is something you have at home. You, in your testimony, indicate that you would like very much to reach down into Texas and Louisiana, where the consumers of those States, as Governor Briscoe has so aptly stated, have through their financing, through their willingness to pay a price three times as high as you are willing to pay, have financed natural gas at or above \$1.42 and have brought it in.

If I understand your testimony correctly, Governor, you are saying you would like to hold on to your synthetic gas, which costs you \$3.50, but that gas which may have cost Texans \$1.75 to bring in, you would like for us to share with you at \$1.42.

Now frankly, I do not find that a very attractive argument, and I do not find it even particularly unselfish. We, in our State, have been willing to share one-half of the gas we produce with other States. There are, of course, those who suppose that an 18-percent return on equity capital can always be found, but there are also people who suppose you can fish in any lake and catch the same number of fish.

The fact of the matter is that drilling in some spots brings in oil and gas, and drilling in other spots does not. It is very difficult. You may, on an average, get an 18-percent return on your fishing, but you need not always get so in every lake, or in every oil patch.

I am struck by the fact that Governors Shapp, Byrne, and Carey, all three would like to see us share our intrastate gas with them; whereas in fact, we have found that gas because we have been willing to pay for it.

I wonder, Governor Shapp, what kind of situation we would be in in Texas if we felt that somehow we should be able to buy steel for about a third the price the people in Pennsylvania pay. Perhaps the Federal Government could put Federal price controls on steel, and every time the steel left, it would cost 52 cents and perhaps if it stayed home in the State, it would cost \$1.30 or \$1.40. Sooner or later we would run out of steel. All you would have to do is pay us as much for the steel as we do ourselves.

I might say, "You are withholding steel. The steel barons in Pennsylvania are withholding the steel from the people in Texas." That is the kind of argument that I have heard today when you say that producers are like "OPEC oil barons," and it seems to me that what we need to do is to try to take a broader look than a provincial one.

We in our State are very pleased to share our supplies. We are proud of the fact we are able to fuel a great part of the rest of the country. All that we have asked is that others pay us something like as much for our product as we pay ourselves. We think that is not an unjust request to make.

If I might, I should like to turn to some specific questions with regard to the testimony that has been made today, particularly with regard to the question of an intrastate system that should be drawn in and come under the same distribution and allocation controls as the interstate system.

Have you been happy, as such, with the interstate system that you have found? I should like, first, to ask Governor Carey.

Governor CAREY. Not entirely. In fact, I recognize in the emergency condition, the Federal Power Commission will administer this program because they possess the relationships with the pipeline companies and so forth.

But frankly, I would like to see action by the FEA and Mr. Schlesinger in oversight of this program as it moves forward and produce a better system for sharing the resources.

We do not quarrel with paying the price that you are paying for your interstate supplies in our part of the country. What we do not want to see, however, is have interstate availability resources withdrawn from our State so we have to somehow get more \$4 and \$5 per thousand cubic feet product moving throughout our State. We are running out that level.

Mr. KRUEGER. I understand that, Governor Carey.

Governor CAREY. What is wrong with some system under FEA of seeing what a uniform national pricing system would produce that would not go very far above what you are paying right now.

Mr. KRUEGER. I would concur with you that it is worse to pay \$5 for synthetically produced gas than to get gas at a lower price.

I would like to observe for the record that on an average of \$3 paid by a New York consumer for natural gas, \$2.30 goes to the distribution system inside the city of New York, 40 cents on average goes to the transportation to bring it from Louisiana or Texas, 30 cents on average goes to the producer, in the State of New York. On average, 10 percent goes to the producer; the other 90 percent goes elsewhere.

Governor CAREY. When you are talking pipeline economics, you do not lose me because, believe me, we want to see more gas flowing through the pipeline that can accommodate more gas that will help amortize the cost of the pipeline and eventually will have a lower overall cost of gas, because we will have something in the empty—

Mr. KRUEGER. My judge to the left is waving his gavel, and I thank the chairman for the time.

Mr. DINGELL. The Chair recognizes now the gentleman from North Carolina, Mr. Broyhill.

Mr. BROYHILL. Mr. Chairman, I would hope that Governor Carey, as you utilize the authority you have and your conservation commission there, you would be halting all burning of gas for boiler fuel. I am thinking for industrial purposes. It seems to me that is a waste of fuel.

Governor CAREY. We do not have any boiler fuel for industrial purposes being burned now.

Mr. BROYHILL. In the New York Times—I do not know what kind of gas this is, whether this is gas over which the FPC has control or whether it is gas—

Governor CAREY. Are you talking about the Auburn gas supply?

Mr. BROYHILL. Right. Whether that is 533 gas or what.

Governor CAREY. That gas supply would be consumed in Green Point, Brooklyn, in 1 day. That is a very limited supply of availability. That is a very ambitious and able mayor trying to attract industrial customers to a place of relatively high unemployment.

Mr. BROYHILL. In our State the utility commission has taken action to try to—

Mr. BROWN. Will the gentleman yield?

Do you have the authority to allocate that surplus gas to the area in Brooklyn you say is short?

Governor CAREY. There is no surplus gas.

Mr. BROWN. It is advertised for sale, and apparently it is surplus over their needs in that community. Do you have authority to allocate that to Brooklyn where you say it is needed?

Governor CAREY. Yes; we do.

Mr. BROWN. Have you done that?

Governor CAREY. We do not have a pipeline to go from Auburn to Brooklyn.

Mr. BROWN. You cannot get it there?

Governor CAREY. No; in fact, there is not that much. Our drilling has produced just about enough to accommodate some industrial needs.

Mr. BROYHILL. Do you have authority to halt these hook-ups—

Governor CAREY. We have done that. We have taken all those steps because we were well aware this day would come. We have brought in the alternative sources I spoke of, synthetic natural gas at \$4 and \$5 per thousand cubic feet.

Mr. BROWN. The legislation before us gives the President of the United States the authority to require an intrastate system to build distribution facilities so that presumably, the gas could be transmitted to some place if there was a need if it was an intrastate system serving the interstate market.

Governor CAREY. The LNG we have that is located in Brooklyn, that comes in from Algeria.

Mr. BROWN. I am talking about this natural gas supply you have in surplus in one part of New York that might be able to help another part of New York.

Governor CAREY. I am not trying to be facetious. I believe that amount of natural gas would evaporate in this room in about 3 hours.

Mr. BROYHILL. I yield to the gentleman from Texas, Mr. Krueger.

Mr. KRUEGER. Thank you.

I have one question. That is, I observe the attorney general in New York, on 19th of August 1976, sought to block offshore drilling off the State of New York. And at this time he testified, and I quote: "There are adequate domestic oil and gas reserves in the Gulf of Mexico and elsewhere which should be developed first."

I just wonder whether that is also the position of the Governor of New York or whether that is only the attorney general's? That is, it is all very well to drill in other parts of the country, in the Gulf of Mexico, where there are adequate reserves, but let's not drill off New York shores.

Governor CAREY. The attorney general of the State of New York is an independently elected official who exercises his functions as he sees fit. He initiated that action.

The Governor, as far as my position is concerned, when the circuit court of appeals found the Federal preeminence was clear in the law, we did not pursue, as far as I am concerned, the suits any further. There are two counties, however, maritime counties, Nassau and Suffolk, that have continued to exercise their rights legally to challenge the Federal outercontinental shelf exploration. But the State is not opposing them.

Mr. KRUEGER. I thank the gentleman for yielding.

Governor CAREY. By the way, in terms of this matter of natural gas indigenous to the State of New York, our total potential, geologically and every other way determined, does not amount to more than 1 percent of our total needs.

Mr. BROWN. Mr. Chairman, if I can get the gentleman to yield to me so I can make Governor Shapp feel better.

Mr. DINGELL. The time of the gentleman has expired. If that is the question, you may so make the Governor feel better.

Mr. BROWN. My comment to the Governor is, I am someone, as is he, that comes from a State that has oil. If we had a market price and the natural gas got too high, would we not be able to gasify coal and perhaps send it back to Texas someday when they run out.

Governor SHAPP. I have been trying to get ERDA to finance a research program for gasification of coal. I have been trying to get ERDA to finance a program to crack the coal seams in the ground of Pennsylvania and release the methane gas before mining and blowing all that gas into the wind as we do. I would like to see coal developed.

We also want a research program. We know how to take sulfur out of coal. We want to do it on a larger scale. I have not been able to get the present administration to move one inch in any direction.

Mr. BROWN. They had a proposal in for the gasification of coal. My colleagues in Congress turned us down, too.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes the gentleman from Connecticut, Mr. Moffett.

Mr. MOFFETT. Thank you, Mr. Chairman.

It is always interesting, in regard to the question asked of Governor Byrne—I think this is the exact quote the gentleman of Ohio said—do you think that is the price at which we will get natural gas? That is the way the question is usually framed.

It is very interesting because it paints, I think, an accurate picture of how we are being held hostage. I think that is what you were trying to say. You were asked to respond to a question about whether you should have held to your guns at 52 cents. It is interesting to look at the settlement in the *South Louisiana* case, which I think was July of 1971, which several major producers announced \$6.23 was accurate through 1977. That should be, I think, said for the record.

Second, my good friend from—and I mean it; we say that a lot around here—my good friend from Texas to my left talks about the consumers' willingness to pay those prices in Texas. We do not really know about that willingness to pay those kinds of prices down there.

I might ask, I asked an earlier question about advertising, is there advertising going on in any of your States to attract new customers to natural gas?

Governor CAREY, you say no.

Governor CAREY. No, we are not advertising. We are advertising the fact we must do more than we have been doing as a region to cope with our overall energy sufficiency and that is why we formed the Regional Energy and Development Corp. among the States of New England and Jersey.

Mr. MOFFETT. I am talking about distribution companies advertising for new customers.

Governor CAREY. With minor exceptions such as the one quoted here that come under the first amendment, we prohibit that kind of enticement.

Governor SHAPP. In 1972, we took our first action. I think by the end of 1972, early 1973, all such advertising by the gas companies ended in that respect.

Governor BYRNE. There are two ways of prohibiting advertising. One is to consider advertising a below-the-line item, which we do in New Jersey and issue an order prohibiting entirely. The utilities have responded in New Jersey to a below-the-line concept.

Mr. MOFFETT. Governor Briscoe, would you agree with respect to President Carter's campaign statements regarding natural gas, that those statements are broad and general enough to cover the kind of deregulation bill that the House passed last year, which included regulation of intrastate?

Governor BRISCOE. No; I would not. Absolutely not.

Mr. MOFFETT. I think, and I know he has been criticized to it, I will try to use it to my advantage here. I think the statement was sufficiently broad to allow that conclusion. I may be wrong. You do not agree with that?

Governor BRISCOE. No; absolutely not.

Mr. BROWN. One of us is wrong.

Mr. MOFFETT. One of us is wrong, the gentleman from Ohio says. I think that is correct.

I was reading over last night some very old debates on the issue of deregulation. And a wonderful Republican Senator named Aiken said in 1950 that economic coercion on Members of Congress is certainly not the sound basis for determining public policy.

I am very grateful some of you have implied that, at least in your statements today, and that we ought to take a good look, particularly as Governor Byrne pointed out, at the windfall that will come from this and other aspects of this plan.

We may try to solve the unemployment problem with regard to people getting out of work now and at the same time create more unemployment through the windfall prices.

I appreciate your testimony.

Mr. DINGELL. The Chair thanks the gentleman from Connecticut.

The Chair observes Governor Byrne was responding to a question from one of my colleagues about long term and short term. I was rather interested by his answer. I do not think you finished.

Governor, would you like to continue that?

Governor BYRNE. It is a unique opportunity that has never been offered to me by the Congress of the United States.

Let me do it by an example, if I may, Mr. Dingell. They are going to start drilling for oil offshore in New Jersey, off Atlantic City. There have been leases purchased by major oil companies. The drilling is going to start in April or May. They have no idea up there whether they are going to find oil or gas.

Logically, they are going to find both, but in what combination, they have no idea at this time. Whatever they find, and they are going to bring it in because they paid for the leases. So whether natural gas prices are subject to regulation or are completely deregulated, that gas is going to be brought in and is going to be put on the market.

I respectfully suggest that in the long term, that a great deal of this natural gas is coming from lands which are owned by, we, the people and that we have a right to have that gas priced on a regional basis. The alternative is to price all fuel at a Btu basis, and in that scheme, natural gas will be a premium fuel and, therefore, command premium prices. It is our land; it is our gas. We have a right to that gas at a reasonable price.

Mr. DINGELL. The Chair does thank you very much for that comment.

Gentlemen, you have here each as the Governors of your States and the representatives of the people who elected you and the people whom you serve. To reiterate briefly some of the questions and concerns that I had directed to the Federal Power Commission, let me ask you this question so we can get your appreciation of where we are and how we are with respect to the legislation.

On the basis of information available to you, is it fair to say the current situation is likely to get worse before things get better, even if the weather is normally cold through the remainder of the winter; and, the emergency will certainly get much worse, and rapidly so, if

the unprecedented weather continues for any period. Is that your appreciation, gentlemen?

Governor SHAPP. I would agree with that statement. We are losing so many jobs now. I am afraid some of the marginal industries may not even open. It is a very worrisome situation we face in Pennsylvania, and we will not know the effects of this over a period of time. But I stated the day before yesterday to some of my legislators and the press up in Harrisburg that the economic impact with this gas shortage is going to be far more devastating to the economy of Pennsylvania than was Hurricane Agnes.

Mr. BROWN. Would the gentleman yield?

Mr. DINGELL. I will yield to my good friend.

Let me ask Governor Byrne if he has a comment he would like to make.

Governor BYRNE. I agree with Governor Shapp on that question.

Mr. DINGELL. Governor Carey?

Governor CAREY. The situation is extreme now. It can get worse. We do not see any prospect that it is going to improve because we are running our SNG plants, which we must do to alleviate the condition, of 115 percent of capacity.

Governor BRISCOE. It is even an extremely cold winter way down in Texas. This has increased gas consumption over that of a normal or warm winter.

Mr. DINGELL. I will be glad to yield briefly.

Mr. BROWN. I might say to the Governor of Texas, apparently the advantage you have is that you do have the gas.

I would like to ask the three Governors from the Northeast if they have any concern about the prospect that industry in their State requiring gas might move south where they can get gas, should this situation continue.

Governor SHAPP. One feature of the bill which lulls plant maintenance, keeps it for operation—

Mr. BROWN. Keeps the pipes from freezing.

Governor SHAPP. Also some of the molds and other things in the industry. I can rest assured that the aggressive sales organizations of the Southern States and the gas producing States are already in contact with Pennsylvania companies telling all the great advantages, including one advantage: we have gas. It may cost you a higher price here, but your taxes will be lower. So it offsets each other. Our garment industry is already being hit that way.

Mr. DINGELL. The Chair has tried to respect the gentleman's time. I have just a little bit here. I am trying to treat myself less fairly on the time than my colleagues. We have witnesses and others, and we are now behind time.

Gentlemen, the Chair thanks each of you. We are honored and grateful you have been here. We take from your presence the hard judgment that you feel this matter is of the utmost urgency and you urge expeditious consideration.

We thank you, Governors, for your kindness and courtesy for being with us today.

The Chair has an announcement to make briefly. We are, as my colleagues and our guests know, somewhat behind time. We will, for that reason, hear our panel of witnesses from interstate pipelines, Mr. Arthur R. Seder, Mr. Jack Head, Mr. Bernard Clarke, Mr.

Peter Smith. And it is my intention, the Chair advises so my colleagues can advise themselves accordingly, that we shall hear these witnesses in the proper order of testimony and to recess at 1:30 until 2:30 for lunch, at which time we will reconvene.

The Chair suggests that probably the order of appearance would be Mr. Seder, chairman of the board, Michigan-Wisconsin Pipe Line Co.; Mr. Jack D. Head, executive vice president of Texas Eastern Transmission Corp.; Mr. Bernard Clarke of Columbia Gas Co.; Mr. Peter G. Smith of the Southern Natural Gas Co.

Before we recognize our witnesses, if we may have a little order in the room. We want to be courteous to our guests and we ask they do not unduly impinge upon the duties of the committee.

Gentlemen, you are recognized in that order.

STATEMENTS OF A PANEL CONSISTING OF ARTHUR R. SEDER, JR., CHAIRMAN AND CHIEF EXECUTIVE OFFICER, AMERICAN NATURAL RESOURCES CO.; JACK D. HEAD, EXECUTIVE VICE PRESIDENT, TEXAS EASTERN TRANSMISSION CORP.; BERNARD J. CLARKE, CHAIRMAN AND PRESIDENT, COLUMBIA GAS SYSTEM; AND PETER G. SMITH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, SOUTHERN NATURAL GAS CO.

Mr. SEDER. Mr. Chairman and members of the committee. My name is Arthur R. Seder, Jr., chairman and chief executive officer of American Natural Resources Co. of Detroit, Mich.

American Natural is the parent company of an interstate natural gas pipeline company which transports and sells gas at wholesale to some 52 distribution companies in 8 Midwestern States, principally Michigan and Wisconsin, and of a local distribution company which distributes and sells gas at retail to over 1 million consumers in the State of Michigan. Our system also operates large underground storage fields which provide a large part of the gas we sell during the winter.

Our pipeline affiliate, Michigan-Wisconsin Pipe Line Co., is a member of the Interstate Natural Gas Association of America—known as INGAA—a trade organization representing interstate transporters of natural gas. I make this presentation today on behalf of my company, but also as a member of INGAA. I make this observation because INGAA has worked diligently in coordinating the efforts of the pipeline industry and in developing and maintaining communications with the White House and governmental agencies in the effort to solve the problems at hand. However, I wish to make it clear that I do not speak for all of the members of INGAA because the time frame within which we were required to work did not permit the adoption of an official policy position in accordance with our bylaw procedures.

I don't think it is necessary to belabor the record with the reasons why we face a severe shortage of natural gas in the eastern two-thirds of the Nation this winter. It is sufficient to say that in many areas this winter has been the coldest on record, and everywhere the weather has been colder than normal. In Wisconsin we have experienced over 30 percent colder than normal temperatures, and in Michigan more than 20 percent colder than normal. Since most of our winter requirements are heat sensitive, including particularly our large residential space

heating load, the demands on our pipelines and underground storage fields have, of course, been immense.

While our system, like most others in the country, plans its operations on the basis that it may be necessary to meet somewhat colder than normal conditions, it would be foolhardy and impractical to size our storage fields and other facilities so as to be able to meet a winter condition that occurs only once in 75 or 100 years. To do so would mean impounding huge volumes of gas that would remain in the ground year after year at a huge cost.

What we are faced with this winter, therefore, is largely a phenomenon of unprecedented weather. However, the problem is exacerbated by the fact that, since new discoveries of natural gas have fallen off dramatically since 1968, the level of deliveries from the producing fields is down substantially. This means that the pipelines have lost the flexibility they once had to call for more gas from field sources to meet an abnormal demand.

Another contributing factor to the problem arises out of the fact that interstate pipelines have found it virtually impossible to enter into long-term contracts to buy onshore gas in the past 4 or 5 years. Since the wellhead price of gas sold to interstate pipelines is regulated by the Federal Power Commission and the price of gas sold to intrastate buyers is not, virtually all new gas discovered on shore has gone to the intrastate market.

We thus face an anachronistic situation in which the interstate pipeline systems are starved for gas while at least some of the intrastate systems located in the producing States have surpluses of gas. In most cases these intrastate systems are willing to sell gas to the interstate systems to help alleviate the crisis, but they are faced with several legal and practical problems: First, they do not want to be subjected to Federal regulation under the Natural Gas Act; second, they must obtain a price for the gas reflecting its cost to them plus gathering and transportation charges; and third, they are frequently bound by producer contracts under which the gas may not be sold interstate.

In order to avoid at least the first two of these problems, the Federal Power Commission has issued regulations authorizing the emergency purchase and sale of gas by intrastate sellers to interstate buyers for a period of not more than 60 days at unregulated prices. An attempt by the Commission several years ago to extend the period to 180 days was reversed by the District of Columbia Court of Appeals' *de facto* deregulation.

Within the past 2 weeks the Commission has again sought to broaden the exemption by providing that an intrastate seller can make successive 60-day emergency sales to interstate pipelines if either the source of the gas or the identity of the purchaser is different.

The problem with the Commission's action is two-fold. First, the question of the legality of the exemption is a difficult one, particularly in view of the decision of the court of appeals, and intrastate sellers may be reluctant to continue emergency sales beyond the 60-day period for that reason.

Second, the interstate pipelines will have an urgent need for additional gas this summer to replenish their severely depleted storage fields, and the emergency authority under the Commission's exemption regulations probably will not be flexible enough to meet that need.

The gas industry, and the Nation as a whole therefore, face two separate but closely related problems.

First, it is necessary to provide procedures by which the gas presently available on the Nation's interstate pipeline systems can be made available this winter to local distribution companies that are in danger of having to curtail service to residential space heating customers and other human needs customers, such as hospitals and nursing homes.

Second, it is necessary to provide specific authority for intrastate sellers to make temporary sales to interstate buyers without being subjected to price or other regulation by the FPC in order to enable the interstate systems to replenish their storage fields next summer.

With respect to the first purpose, I believe that the proposed legislation authorizing the President to require deliveries and transportation of gas by an interstate pipeline to another interstate pipeline or local distribution company is necessary and desirable. While I will have some suggestions regarding specific provisions of the bill, I support the purpose and intent of the proposal.

The gas industry has had a remarkable record of voluntary cooperation to meet emergency outages of gas on particular pipeline or distribution systems. The tradition has extended even to the present general shortage, with many systems presently participating in sale, exchange, and transportation arrangements to meet severe supply deficiencies.

The shortage has now become so acute and widespread, however, that there is no interstate pipeline system, so far as I know, that has a surplus of gas. Any transfer of gas to meet an immediate problem on another pipeline's system necessarily means, therefore, that the transferor pipeline is taking gas needed to serve its own distribution company customers in order to supply those of another pipeline.

But if it does so, the transferor pipeline may well be subjected to injunctions and damage actions by its distribution customers or the consumers they serve and to legal actions by State and local government representatives of the areas it serves.

For these reasons, I believe that legislation authorizing the President or his designee to order the delivery or transportation of gas by one pipeline to another is necessary, and I feel that the concept of section 9(a) of the bill is appropriate to make clear that such an order is a complete defense to a legal action arising out of something done or omitted as a result of compliance with that order.

I want to emphasize, however, that we would strongly oppose any forced transfers of gas to meet industrial or other requirements that do not fall within the strict human needs category. Any such transfers would simply shift plant closings and unemployment from the areas served by the transferee pipeline to those served by the transferor. The bill submitted by the President recognizes the limited purpose for which gas deliveries can be ordered, and on that basis we support it.

With respect to the second major purpose of the legislation, namely, to permit intrastate gas to flow into the interstate systems in order to replenish storage next summer, I also believe that the bill before you is an appropriate response.

Again, I will have some specific suggestions, and I particularly recommend that the termination date be fixed not earlier than October 31, 1977, so as to encompass the full storage injection period.

In the remainder of my statement, I have a number of specific suggestions with respect to the legislation. I will not go through them all in detail, Mr. Chairman. I would hope your staff would go over them in considerable detail. I would like to concentrate on just a few of them.

Mr. DINGELL. The staff will assuredly do precisely that.

Without objection, those suggestions will appear in the record as if given. You may continue to make such summary of your comments as you wish.

[The recommendations referred to follow:]

RECOMMENDATIONS WITH RESPECT TO SPECIFIC PROVISIONS OF THE BILL

Section 4(a)(3).—I propose a new section 4(a)(3) to cover a situation brought to our attention by certain systems where local distribution companies served by an interstate pipeline produce or buy gas directly from synthetic gas plants or liquefied natural gas plants at high prices relative to natural gas. They are concerned that if, partly because of the gas they receive from these plants, the markets served by their interstate pipeline are well supplied, the pipeline might be called to deliver natural gas to other pipeline systems. If that occurred, their pipeline supplier would only be compensated for the cost of the natural gas being replaced and would leave the distribution companies on that system paying for the high-cost synthetic or liquefied gas.

In order to meet that problem, I recommend a new section 4(a)(3) that would in effect exempt gas produced from SNG and LNG plants and sold directly to local distributors from consideration as a supply source in determining relative need for gas unless compensation arrangements were voluntarily agreed upon between the receiving pipeline and the delivering pipeline and the local distribution companies involved. The language I would suggest is as follows:

"4(a)(3) In issuing orders for delivery of gas under this section, the President shall not consider the gas produced or received by an interstate pipeline's local distribution customers from synthetic gas or liquefied natural gas plants as a part of the supply available to meet the interstate pipeline's market requirements unless the terms of compensation for any deliveries by such interstate pipeline are voluntarily agreed upon by the interstate pipeline and such local distribution customers under the provisions of section 4(f)(1)."

Section 4(f)(1).—While this section refers in a parenthetical phrase to the possibility that "compensation" for gas delivered under an order of the President "may include compensation in kind," the President's authority to order that the gas be returned in kind should be made much more definite and specific. In many, if not most, cases, the delivering pipeline would rather have the gas returned than simply bought and paid for. I would therefore suggest that the parenthetical phrase, "(which may include compensation in kind)," be stricken and that a sentence be added to Section 4(f)(1) as follows:

"The President may, as a condition of issuing an order requiring an interstate pipeline to make emergency deliveries of gas under section 4(a)(1), require that the interstate pipeline or local distribution company receiving such gas must return the gas in kind within a period specified by the President. In that case the compensation paid for such deliveries under section 4(f)(2) shall not include payment for the cost of purchased gas."

Section 4(f)(2).—The compensation provision in the Bill does not cover the delivering pipeline's costs, as I think it was intended to do. As written, this provision would merely compensate the delivering pipeline for the replacement cost of the gas (plus not more than 5 percent). This approach ignores the fact that the delivering pipeline and its distribution customers both lose the sale of that gas and do not recoup their costs by the method proposed.

A pipeline's total costs are reflected in its tariff rates. Of those costs, about 60 percent represent purchased gas costs, while the remainder represent other operation, maintenance, taxes and capital costs. Merely compensating a pipeline for the cost of purchased gas therefore meets only part of the total costs applicable to the transferred volume, and the delivering pipeline must receive its full tariff rates in order to be made whole.

There are two other factors that must also be considered in determining the proper level of compensation. First, it is wholly appropriate, as Section 4(f)(2) apparently contemplates, that the purchased gas component of the delivering

pipeline's rates should reflect the replacement cost of the gas rather than its average cost. Since it is the delivering pipeline's customers who must ultimately pay for the higher replacement cost in their rates, the excess of replacement cost over average cost on the delivering pipeline's system should be credited to its cost of purchased gas in the purchased gas cost calculation. This is apparently the intent of Section 7 of the Bill but is incorrectly stated, as I will explain.

Second, the cost of gas delivered in the winter should reflect the cost of storing that gas, which may not be specifically reflected in the delivering pipeline's rates to its regular customers. This component of cost should also be included in the compensation calculation.

Section 4(f)(2) is also deficient in that it stops at the interstate pipeline level and does not compensate the pipeline's distribution customers, from whom the gas has been taken away, for the loss of sale of the gas transferred to another pipeline's distributors. In other words, the distribution companies that would otherwise have sold the gas, but for the order directing it to be delivered elsewhere, are entitled to a credit equal to the difference between what they would have paid for the gas and the rate at which it would have been sold to their consumers. Unless the Bill is changed, its effect is to shift income from distribution companies which effectively give up gas to those who obtain the emergency gas.

I would therefore propose that Section 4(f)(2) be revised to read:

"(2) For purposes of paragraph (1), the President shall calculate the amount of compensation—

"(A) for deliveries of natural gas, based upon the amount required to make the interstate pipeline delivering such gas and its local distribution customers whole for loss of sales resulting therefrom; provided, that the cost of gas to the delivering interstate pipeline shall be calculated at the highest cost currently being paid by such interstate pipeline for equivalent quantities of natural or synthetic gas; and

"(B) for transportation, storage and other expenses, based upon reasonable costs, as determined by the President."

Section 5(a).—I believe that the antitrust procedures prescribed in the Bill are cumbersome and unnecessary and may inhibit voluntary efforts of the gas systems to meet emergencies. In any event, however, I object to the limitation implied in the opening phrase of the section: "There shall be available as a defense to any action. . . ." This suggests that while the defense is "available," it can be rebutted or overcome. I believe that the intent is, and the section should provide, that "It shall be a complete defense to any action brought under the antitrust laws. . . ."

Section 6(a).—The August 31, 1977, termination date for emergency purchases should be extended to October 31, 1977, in order to encompass the entire storage injection period.

In addition, rather than merely leaving the question of the price that may be paid for emergency purchases to later determination, I suggest that the maximum price be fixed in the Bill itself. In order to elicit any meaningful volumes of intrastate gas, I believe that the ceiling price must be set at an average of the three highest prices being charged in the field by intrastate producers or, in the case of purchases from an intrastate pipeline or local distribution company, at an average of the three highest prices being paid by the intrastate seller. Emergency purchases at prices in excess of the ceiling fixed in the legislation could be made only after specific authorization by the President.

I would therefore recommend that Section 6(a) be revised to read as follows:

"Sec. 6(a) Any interstate pipeline or local distribution company served by an interstate pipeline may contract for emergency supplies of gas for delivery before October 31, 1977

"(1) from any producer of natural gas (other than a producer who is affiliated with the interstate pipeline purchaser) at a price not exceeding the average of the three highest prices provided in currently effective contracts for the sale of gas at the wellhead having a term of five years or more in the State in which the gas is produced if (A) such natural gas is not produced from the Outer Continental Shelf and (B) the sale or transportation of such gas was not, immediately before the date on which such contract was entered into, certificated under the Natural Gas Act, or

"(2) from any intrastate pipeline, local distribution company or other person (other than an interstate pipeline or producer of natural gas) at a price not exceeding the average of the three highest prices currently being paid for gas by such intrastate pipeline, local distribution company or other person plus not more than 10 percent of such average cost to reflect gathering, transportation and storage costs, or

"(3) from any person at a price in excess of that provided in subparagraph (1) or (2) of this paragraph upon specific authorization by the President."

Section 7.—The first sentence of Section 7, combined with Section 4(f)(2), would mean that an interstate pipeline receiving compensation for gas delivered would have that compensation taken away through operation of its purchased gas adjustment clause. This is an obvious error and would leave the delivering pipeline without the gas or any compensation whatever. What is apparently intended is that the excess of the so-called "replacement cost" in Section 4(f)(2) over the average cost of gas reflected in the purchased gas adjustment clause should be reflected in a reduction in the average cost of gas. We do not object to that adjustment in principle. However, this does not obviate the necessity for the other changes in Section 4(f)(2).

We think that it would also be much preferable not to establish a mechanistic procedure in the Bill which would require that the compensation be run through either the receiving or delivering company's purchased gas adjustment clause. This is because the gas delivered by an interstate pipeline may result in reduced deliveries to some but not all of its distribution customers, and the gas received by an interstate pipeline may likewise go to some but not all of its customers. Since the purchased gas adjustment clause distributes costs pro rata to all distribution customers, that mechanism may not be appropriate. We would simply leave the pass through of compensation credits or charges by an interstate pipeline to its distribution customers to the Federal Power Commission to be allocated in a fair and equitable manner.

I would therefore recommend that Section 7 be revised to read as follows:

"Sec. 7. In the case of any interstate pipeline receiving compensation under section 4 with respect to deliveries ordered pursuant to such section, the excess of such compensation over the amount required to make the interstate pipeline whole, based upon its average cost of purchased gas, shall be credited to its customers in such manner as the Federal Power Commission finds to be fair and equitable. In the case of any interstate pipeline paying compensation with respect to deliveries or contracts for supplies of natural gas under section 4 or section 6, such compensation shall be charged to its customers in such manner as the Commission finds to be fair and equitable."

Section 9(a).—This section needs revisions for two purposes: first, compliance with an order under this legislation should be a complete defense, not merely "available as a defense"—a weak and ambiguous phrase; second, action under an order of the President should be a defense not only against actions for breach of contract but for any claim for damages or injunctive relief, such as an action brought by a state agency. The section should be revised as follows:

"Section 9(a). It shall be a complete defense to any action for damages or injunctive relief under Federal or State law arising out of any act or omission that such action was taken or that such omission occurred as a result of complying with an order issued under Section 4(a)."

Mr. SEDER. The first suggestion has to do with a problem that was raised by the Congressman from Connecticut and one of the Governors having to do with the situation in which synthetic gas or liquefied natural gas is being produced in one of the east States and it is the relation of that gas to the allocation of gas to other systems.

Our proposal is, my proposal, I should say, is that that gas be eliminated from the pool subject to allocation, if I can put it that way, unless there is voluntary agreement between all the parties involved as to the compensation to be received by the people who will, in effect, be retaining the synthetic gas in their own systems and permitting natural gas to flow to someone else's system. I think that is a real problem and should be addressed.

The second element I want to discuss has to do with making it clear, as I think the bill does not do, at least not as clearly as we would hope, that compensation for the transfer of gas under an order of the President can be not only in money but also in kind.

I think many, if not most, pipeline systems would rather have the gas back rather than the payment for that gas. So that after the crisis has eased to some extent, I think many potential transfer or pipelines

would rather have the gas returned to them. And we want to make that more clear than appears in the bill where right now it is just in a parenthetical phrase.

Now, I would like to get to the compensation provisions because while I think we understand the intent of the legislation and I think we agree generally with that intent, there are some difficulties with it I think arising largely the fact the draftsmen of the bill simply were not familiar enough with pipeline operations.

I am speaking now from page 8 of my prepared statement, if you are following that.

Section 4(f)(2) is a compensation provision and does not cover the delivering pipeline's costs, as I think it was intended to do. As written, this provision would merely compensate the delivering pipeline for the replacement cost of the gas, plus not more than 5 percent. This approach ignores the fact that the delivering pipeline and its distribution customers both lose the sale of that gas and do not recoup their costs by the method proposed.

A pipeline's total costs are reflected in its tariff rates. Of those costs, about 60 percent represent purchased gas costs, while the remainder represent other operation, maintenance, taxes and capital costs. Merely compensating a pipeline for the cost of purchased gas therefore meets only part of the total costs applicable to the transferred volume, and the delivering pipeline must receive its full tariff rates in order to be made whole.

There are two other factors that must also be considered in determining the proper level of compensation. First, it is wholly appropriate, as section 4(f)(2) apparently contemplates, that the purchased gas component of the delivering pipeline's rates should reflect the replacement cost of the gas rather than its average cost. Since it is the delivering pipeline's customers who must ultimately pay for the higher replacement cost in their rates, the excess of replacement cost over average cost on the delivering pipeline's system should be credited to its cost of purchased gas in the purchased gas cost calculation. This is apparently the intent of section 7 of the bill, but is incorrectly stated, as I will explain.

Section 4(f)(2) is also deficient in that it stops at the interstate pipeline level and does not compensate for pipeline's distribution customers, from whom the gas has been taken away, for the loss of sale of the gas transferred to another pipeline's distributors.

In other words, the distribution companies that would otherwise have sold the gas, but for the order directing it to be delivered elsewhere, are entitled to a credit equal to the difference between what they would have paid for the gas and the rate at which it would have been sold to their consumers. Unless the bill is changed, its effect is to shift from distribution companies which effectively give up gas to those who obtain the emergency gas, and I have proposed some specific language to meet the points I have just addressed.

I will now skip to section 6(a), which is the emergency purchase provisions about which most of the discussion is centered this morning. That is at the bottom of page 10 of my prepared statement.

The August 31, 1977, termination date for emergency purchases should be extended to October 31, 1977, in order to encompass the entire storage injection period.

In addition, rather than merely leaving the question of the price that may be paid for emergency purchases to later determination, I suggest that the maximum price be fixed in the bill itself.

In order to elicit any meaningful volumes of intrastate gas, I believe that the ceiling price must be set at an average of the three highest prices being charged in the field by intrastate producers or, in the case of purchases from an intrastate pipeline or local distribution company, at an average of the three highest prices being paid by the intrastate seller plus 10 percent for gathering, transportation and storage costs. Emergency purchases at prices in excess of the ceiling fixed in the legislation could be made only after specific authorization by the President.

So our approach to this emergency price provision for the sale of intrastate gas would be to say, first, if you buy it from an intrastate producer, you can pay a ceiling price of the average of the three highest prices being paid in that State for intrastate sales.

Second, if you buy it from an intrastate pipeline company, you pay the average of the three highest prices that company is paying for intrastate gas plus an allowance for storage and gathering of 10 percent.

Third, if you want to pay more for emergency gas, then those prices and application would be made to the President's designee for authority to pay that extra price.

We think that is a way both to protect the interest of the consumers in the producing States that govern price could be referred to and also protect the consuming States from inordinate increases in prices and yet would be sufficient to elicit the kinds of volumes that Chairman Dunham indicated would be necessary for storage next summer.

Section 7 of the bill is closely related to section 4(4)(2). They both have to do with compensation. The first sentence of section 7 combined with section 4(f)(2) would mean an interstate pipeline receiving compensation for gas delivery would have that compensation taken away through operation of its purchased gas adjustment clause.

This is an obvious error and would leave the delivering pipeline without the gas or any compensation whatever. What is apparently intended is that the excess of the so-called replacement cost in section 4(f)(2) over the average cost of gas reflected in the purchased gas adjustment clause should be reflected in a reduction in the average cost of gas. We do not object to that adjustment, in principle. However, this does not obviate the necessity for the other changes in section 4(f)(2).

And we have some other suggestions, Mr. Chairman, in the remainder of my statement, but I think in conclusion I should say with these changes, I urge enactment of the bill. It is urgently needed and will materially assist in meeting emergencies affecting human needs requirements this winter and in replenishing storage fields next summer.

Mr. DINGELL. The committee thanks you for your very helpful testimony.

The Chair does advise that you made a number of useful suggestions with respect to the technical content of the legislation. The Chair is disposed to try to consider synthetic fuels, and hopefully, the comments and suggestions you have made. The staff is going to review your suggestions and those of other witnesses who appear before this committee in order to make the necessary adjustments where it be humanly possible.

I urge you and perhaps Mr. Rogers, who is an old friend of the chairman and former member of this committee, to try to work out some of these technical problems, particularly with regard to the question of compensation.

Gentlemen, we will take our next panel member.

STATEMENT OF JACK D. HEAD

Mr. HEAD. I am Jack Head, an executive vice president of Texas Eastern Transmission Corp., a pipeline which originates in Texas and terminates in New York.

All of our natural gas sales are made at wholesale to other interstate pipelines and to distributors which have principal market areas in Ohio and Illinois, Pennsylvania, New Jersey, New York, and the New England areas.

I appreciate the opportunity to appear before this committee concerning this emergency legislation which I believe to be of critical importance to the well-being of the gas consumers in the Midwest and Northeastern sections of our country during this extremely harsh winter.

I have listened to Mr. Seder's statement and can state my company is in general accord with the positions he has given to the committee and with his recommendations as to changes in the bill. I, therefore, will not burden this committee with a reiteration of the points which he has already made.

I would, however, like to take a few moments of the committee's time to discuss my company's problem with section 6 of the bill dealing with emergency purchases. Our primary concern deals with that portion of section 6 which gives the President the right to establish fair and equitable prices for emergency sales of gas by producers and intrastate pipeline companies.

First, let me say from the press and also from the section-by-section analysis of this bill, it would appear that in some quarters, at any rate, that provision of the bill could be used to roll back prices after the fact. I can assure this committee that we interstate pipelines cannot buy emergency gas if there is any threat of a rollback of the price, retroactively.

Mr. BROWN. Why?

Mr. HEAD. Why? Because no intrastate pipeline or producer would dare sell us gas if his price might be cut to some unrealistic price later on in the year. He needs to know exactly what he is going to get for his gas at the time he sells it, and he cannot be subject to a threat of a rollback retroactively. We simply would not be able to buy gas subject to that threat.

Second, I do not think we can buy much gas if we leave it to the President to establish a fair and equitable price. I do not mean he is not going to establish a fair and equitable price, but a fair and equitable price established by the President is going to be subject to appeals, and we are going to be in the same never-never land with the ceiling price established by the President that we have suffered with under the ceiling prices established by the FPC.

So, if there is to be a ceiling price, then I think that ceiling price must be established by this Congress if we are to be able to go out and obtain the gas.

Now Mr. Seder has suggested a ceiling price which is equal, in effect, to the going price in the State. You take the average of the three highest prices being paid at the time of the sale in that State. I would not go back to prices in 1976 or 1975 or a month ago. I would let the producer get the price that he can demand from the intrastate market if he sold it now.

Mr. Seder has also suggested with respect to an intrastate pipeline that intrastate pipeline should get the average of the three highest prices it is then paying for gas, and that is certainly fair. That is the replacement cost of the gas. But that intrastate pipeline has had to gather the gas from the wells and transport it to a point of delivery to the interstate pipeline and perhaps store it. So I think it is only fair that it has an up on that price, and you have to be arbitrary, but I think a fair and equitable up would be 10 percent of his average price.

In Texas, for example, that would result, from today's prices, for the producer about \$2 and the price for intrastate pipelines about \$2.20, and gas is now being sold on emergency sales in excess of that. But I believe these prices would elicit gas from the intrastate market if gas becomes available. None is available at this date, gentlemen.

If the committee wishes to consider some other methods of approaching a ceiling price, the only other fair method I know would be to establish a ceiling price on a Btu equivalent of the price of new domestic crude. New domestic crude today selling for approximately \$11.63, which would result in a price practically the same as Mr. Seder is suggesting at about \$2.04.

Let me emphasize I think these ceiling prices should be applicable only to sales by domestic independent producers and by intrastate pipelines. I share the belief of the chairman and Congressman Brown that this bill is too restrictive as to where we can buy gas. We should be able to buy emergency gas from anyplace, but we can, for example, buy emergency gas perhaps from an industry which would cut back on its natural gas supplies and substitute fuel oil.

Mr. DINGELL. Mr. Head, I want to make the record very clear here. I have not indicated any particular positions where gas ought to be bought or not bought.

Mr. HEAD. I am sorry, Mr. Chairman.

Mr. DINGELL. I just want the record clear. When I ask a question, I do not necessarily mean I am for or against it.

Mr. HEAD. I beg your pardon, Mr. Chairman.

Mr. DINGELL. No pardon is necessary. I am correcting the transcript.

Mr. HEAD. It is my position and shared, I think, by the other pipeline companies, that we ought to be able to get emergency gas from any and all sources, including synthetic gas. But the price I am recommending for an intrastate producer or pipeline would not be applicable to gas we might obtain from an industry which would cut back on its gas supplies and substitute fuel oil. It should be entitled to a price equal to the cost of fuel oil because that is what it will cost industry to make gas available.

Under today's price of fuel oil, the Btu equivalent would be \$2.90 per Btu. A local distributor might have excess SNG capacity which he can make available. If we get that, then his ceiling price would be what it cost him to make the SNG. My proposed ceiling price is

applicable only to domestic producers and intrastate pipelines. And if the President is given the power to establish any ceiling prices, it should only be applicable for these unusual situations where we would expect and hope to get gas from industries and distributors.

Finally, gentlemen, I do support this bill, with the modifications which Mr. Seder has suggested and with the additional modifications I have suggested. I want to caution the committee, however, that as of today, we see little or no gas available in the intrastate market. We do believe that this summer gas will be available in rather substantial volumes for injection into storage, when it is going to be desperately needed. I share Mr. Seder's concern that we are cutting off our ability to buy this gas too quickly. It should be extended at least until October 31, because that is the end of our injection season.

Thank you, gentlemen.

Mr. DINGELL. The committee thanks you for your very helpful testimony.

We will take our next panel member.

STATEMENT OF BERNARD J. CLARKE

Mr. CLARKE. Thank you, Mr. Chairman.

My name is Bernard J. Clarke. I am chairman and president of the Columbia Gas System and I make this statement on behalf of the Columbia Gas System. Copies of the formal statement have been filed with the clerk of the committee and are available. I will not read it laboriously.

I subscribe to essentially everything that Mr. Seder has said and likewise to what Mr. Head has said. I would limit myself to just making a few added points, and these are set forth in terms of language changes for the bill in the appendix to the statement that has been filed.

At section 4(c)(2), the Governors of the States are directed to take into account the volumes of natural gas available within the State before they ask for emergency allocations.

We would suggest that that language be modified to include other fuels, interchangeable with natural gas, and we would agree with Mr. Seder that if, for example, that brought into play synthetic gas or propane air, that the compensation feature should reflect the full cost of that source of gas.

In section 6(a), it may not be correct, but a way of reading that particular section would suggest that you would have to have advance approval for each emergency purchase, and if that is the way the language were to be interpreted, it would be an unrealistic burden.

At subparagraph 1 of section 6(a), so as to make it abundantly clear as to what sources are available, we would suggest that the language be changed or add to the language for any producer of natural gas, add the words domestic or foreign.

In the same general section, we believe that the prohibition of getting emergency gas from the Outer Continental Shelf is an unwise one. We assume that the drafters of the legislation wanted to protect against higher than the effective nationwide weight applied by the Federal Power Commission for such gas from the Outer Continental Shelf.

We think that is a sound position to take and have suggested language that would modify it so you could get gas emergency from the Outer Continental Shelf and you can get such gas.

Similarly in the second paragraph of 6(a) after "other persons," we would insert the same words, "domestic or foreign."

The point in section 6(b) about compensation, we reiterate somewhat what Mr. Seder said. We have a different set of language but it has the same intent, compensate a pipeline for its total cost and expense for providing such gas.

Next it itemizes in section 11(a) where a civil penalty of \$25,000 per day is assessed and then followed by section 11(b) where a \$50,000 penalty is assessed for willful violation. Reading the two of them together it would suggest that an unintentional violation or a violation that was committed unknowingly in what is going to be a fast-breaking ball game would be subject to civil penalties of \$25,000 and we would urge that that section 11(a) be stricken but that section 11(b) dealing with willful violations be permitted to stand.

Finally, I would underscore what Mr. Seder and Mr. Head had said about the termination date for this emergency gas under 6(a), namely make it October 31, 1977, rather than the present August.

Thank you, Mr. Chairman.

[Mr. Clarke's prepared statement follows:]

STATEMENT OF BERNARD J. CLARKE, CHAIRMAN AND PRESIDENT OF THE
COLUMBIA GAS SYSTEM

I am B. J. Clarke, Chairman and President of the Columbia Gas System and I make this statement on behalf of the Columbia Gas System.

Columbia is an integrated natural gas system engaged in all phases of the natural gas business. It serves directly or indirectly approximately 4.2 million customers.

In its retail markets, Columbia serves approximately 1,800,000 residential and commercial customers of whom 1,770,000 use natural gas for space heating. There is also a relatively high saturation of space heating amongst the 2.4 million customers of the non-affiliated companies served by Columbia. The gas requirements of the System are extraordinarily sensitive to winter weather.

Columbia has developed a vast underground storage facility to supply approximately 30% of its winter months' requirements; and, equally important, approximately 60% of its requirements on design peak days.

I will not burden the Committee with the details of the unprecedented winter weather experienced in the eastern part of the United States since October. Suffice it to say, that from October 1 to January 27, the weather was 978 DD's colder than the norm of 2906. Columbia's sendout is roughly 100 MMCFD per Degree Day. The remaining natural gas supply available to the distribution companies served by the System is, on a seasonal basis and assuming normal weather, barely adequate to take care of essential needs during February and March.

The demands during the past 100 days have necessitated a much greater draw-down of storage than scheduled. We have already used practically all of our total winter storage draw-down budget. If in the months of February and March a cold day or days which have to be assigned a high degree of expectancy should be experienced, it would be impossible to meet the requirements of essential needs of customers without emergency gas from others.

If the weather should continue to be colder than normal, the situation will be exacerbated.

Because of these circumstances, Columbia supports the concepts embodied in the legislation under consideration by the Committee.

While other pipelines would endeavor to render assistance on a voluntary basis for the balance of the winter, it will be extremely difficult for a pipeline or its distribution customers to relinquish gas to another area when it will impinge upon the economics of the areas from which the gas is being taken. Accordingly, the

proposal to give temporary emergency allocation powers to the Administration to protect essential services for the duration of the winter is essential.

Looking beyond the winter period, we must consider the problem of replenishing the storage positions of companies such as Columbia in order to meet the needs of the winter 1977-78. It will be necessary commencing right after this winter season to be in a position to purchase emergency supplies of gas so as to enter the 1977-78 heating season with adequate gas in storage. Emergency purchases at prices in excess of the interstate nationwide rate will be necessary. For these reasons, legislation for 180-day emergency sales is required and urged.

The draft bill submitted by the Administration to Congress on January 26, 1977 has been reviewed. Some technical changes are recommended to improve the bill. Attached to this statement as Appendix A are such changes. Comments on four of the items are in order:

In Section 6(a) that relates to emergency purchases for 180 days, we believe that it should be made clear that the administration of emergency purchases can be accomplished with an order of "general authorization" with the necessary guidelines as to price in much the same manner as the Federal Power Commission has accomplished emergency purchases with its Regulation 2.68. For that reason, we were suggesting that the first lines of Section 6(a) be revised to read:

"The President may by order grant general authorization to interstate pipelines or local distribution companies served by an interstate pipeline", etc.

As to subparagraph (1) of Section 6(a), we would note that it may be possible to negotiate for natural gas which is being produced in the Gulf but which has been certificated for refineries in Louisiana and Texas. As it is presently drafted, Section 6(a)(1) might foreclose the use of such gas. We assume that the drafters of the legislation intended that such gas should not be priced at a rate greater than the nationwide rate prescribed by the FPC. For that reason, subparagraph (1) has been modified to eliminate the exclusion of natural gas produced from the Outer Continental Shelf, but substituting a proviso that if such gas is produced from the Outer Continental Shelf, the price for the gas shall not exceed the then effective nationwide rate prescribed by the FPC under the Natural Gas Act.

In subparagraph (1) of Section 6(a), it is also proposed that the first sentence which covers purchases from "any producer of natural gas", be modified to include both domestic and foreign producers. Similarly in Section 6(a)(2) which covers acquisitions from intrastate pipelines, local distribution companies or other person we suggest that "other person" also be extended to include domestic or foreign. Our experience in acquiring emergency gas from Canada suggests that possibly additional emergency gas for 180 days might be obtained from that source.

Finally, we recommend that Section 11(a) under the heading "Enforcement" be deleted and that subparagraphs (b) and (c) be renumbered (a) and (b). We accept without reservation the requirement of a criminal penalty for a willful violation of a Presidential Order. We think it is neither fair nor equitable to fine companies for unintentional violations of orders especially in view of the very complicated and confusing situations that will be involved in these emergency situations.

APPENDIX

SUGGESTED AMENDMENTS TO THE DRAFT BILL SUBMITTED TO CONGRESS BY THE ADMINISTRATION ON JANUARY 26, 1977

1. On page 5 of the Bill, Section 4(c)(2) in subparagraph (B), we would suggest in the last line that after the words "volumes of natural gas" and before the "available", there should be inserted: "and other gaseous fuels interchangeable therewith". We believe that the total gas resources available should be considered in developing the data in support of an emergency.

2. In Section 6(a) we would suggest that the first two lines be revised to read as follows: "The President may by order grant general authorization to interstate pipelines or local distribution companies served by an inter-".

The reason for such change is to suggest that the President or his designated delegate can handle these emergency purchases by a general directive rather than on an ad hoc basis for each purchase. An ad hoc approach would produce an administrative impossibility.

3. We would suggest that in the last two lines of that paragraph be revised to read as follows: "emergency supplies of natural gas for delivery within 180 days from the effective date of this Act." The reason for this suggested change is that we assume Congress desires to authorize 180-day emergency purchases; it is not clear as to what date the Act will become effective.

4. We would suggest a revision of subparagraph (1) of 6(a) to read as follows (the changes are underlined):

(1) From any producer of natural gas, domestic or foreign (other than a producer who is affiliated with an interstate pipeline as determined by the President) if the sale or transportation of such gas was not, immediately before the date on which such contract was entered into, certificated under the Natural Gas Act, provided, however, if such gas is produced from the Outer Continental Shelf the price for the gas shall not exceed the then effective nationwide rate prescribed by the Federal Power Commission under the Natural Gas Act, or . . . "

As the subparagraph (1) is presently drafted, it might foreclose the possibility of arranging for gas that is produced in the Gulf and has been certificated by the Federal Power Commission for refineries in Louisiana and Texas but which now might be made available on an emergency basis. Recognizing what the Bill is attempting to achieve, that emergency gas if it comes from the Outer Continental Shelf can only be priced at the nationwide rate, we have revised (1) to permit gas from the Outer Continental Shelf to be an emergency purchase but limit the price at which it can be sold.

5. In Section 6(a)(2) in the second line after the words "or other person", we would suggest inserting "domestic or foreign".

6. In Section 6(b)(2), we would suggest that the last two lines be revised to read as follows: "Such pipeline, the costs, including transportation and other expenses, incurred by it for natural gas pursuant to subsection (a)."

7. We strongly recommend that Section 11(a) under Enforcement be deleted and that subparagraphs (b) and (c) be renumbered (a) and (b). The reason for this recommendation, which we realize is substantive, is that it is clearly possible considering the complexities that will be involved that there may be unintentional violations of orders or supplemental orders and that they should not be subject to severe penalties. We have no concern with a willful violation as provided for in the present subparagraph (b).

Mr. DINGELL. Mr. Clarke, the committee thanks you.

Mr. Smith.

STATEMENT OF PETER G. SMITH

Mr. SMITH. Mr. Chairman, I am Peter Smith, president and chief executive officer of Southern Natural Gas Co.

Like the other gentlemen, my company is a member of Interstate Natural Gas Association. I am speaking on behalf of my company, not on behalf of that association. I have submitted to you a statement on our gas supply situation which I believe in this particular crisis period is one of the worst in the United States and I will not reiterate that statement at any length. It is available for the record if you should like it.

Mr. DINGELL. Without objection, the full statement will appear in the record at the appropriate place.

Mr. SMITH. I would like to make a couple of observations which are not in my statement regarding the proposed legislation. I do want to say, first, that Southern Natural is one of the pipelines which had to curtail into its so-called category 1, its highest priority requirement in 2 days in the month of January—January 19 and 20. During that period we received extraordinary voluntary help from other pipelines. That was also referred to in my statement.

I won't give you the statistics but I think it is also appropriate to state on the record we had extraordinary help from the Federal Power Commission and from the Federal Energy Administration in moving with great rapidity to help us to do some things to meet this critical situation for gas supply which we had on our pipeline system.

We believe, Mr. Chairman and gentlemen, that the natural gas emergency is going to continue throughout the remainder of this

winter and we have the same concerns the other pipelines expressed, to accomplish replenishment of storage during the forthcoming season.

I should add the distribution companies in our market area who have propane air facilities for peaking service are in short supply for propane, which means with a recurrence of cold weather they can present us with a precise recurrence, a worse recurrence of a crisis situation.

With respect to the legislation that has been proposed we support it and we support the comments that have been made by the other gentlemen representing the pipeline industry. I would urge that we do not need advance approval and should not have a requirement in the legislation for advance approval for emergency purchases from producers or intrastate pipelines if the legislation contains a provision as was suggested by Mr. Head and Mr. Seder which would establish the price levels, maximum price levels for purchases from those two sources, and we think that we can move much faster and more effectively to meet immediate crises if we do not have to go to any Government agency or the President's designee to acquire advance approvals.

We think it is most important, gentlemen, and the bill does provide this, but we earnestly urge you to keep a provision to this effect in it, that we be able to purchase natural gas to replace boiler fuel loads and comparable loads where there are alternate rules available at a price which compensates the person for replacing the natural gas with the normally higher price alternate fuel which he can use.

We have at least one such situation on our system now and it has been a lifesaver to us. We are working on two more. The bill does provide that, but do not lose that from it. We think it is most important, gentlemen, that you maintain in this bill the provisions relating to the transportation of gas through intrastate pipeline systems and the exemption of those systems from continuing regulation by the Federal Power Commission or the Interstate Commerce Commission as a result of that temporary transportation of gas in the intrastate systems.

This has been a roadblock to us in getting emergency gas into our system because those people had contractual provisions with their suppliers which prohibited them from doing it. If they can be exempted from continuing regulations by doing that on an emergency basis, it is a most desirable thing and I urge it upon you.

Let me conclude by saying that we feel it is most important that you gentlemen move quickly with respect to this legislation. We think we need it and we need it badly to help us through the continuation of this winter heating season. There has been talk earlier when the Chairman of the Federal Power Commission was here regarding regulations and problems of due process.

I realize the imperative necessity of some sort of due process in our system but, gentlemen, if we get bogged down in writing a bunch of regulations and get tied up in long administrative procedures when people are in desperate supply situations for gas, then we are going to have trouble meeting those emergency situations.

FPC has moved; FEA has moved. I hope you will give the President's designee the flexibility to do that in the future.

[Mr. Smith's prepared statement follows:]

STATEMENT OF PETER G. SMITH

Mr. Chairman and distinguished committee members, my name is Peter G. Smith and I am president of Southern Natural Gas Co. I appear at your direction to discuss Southern Natural's gas supply and deliverability this winter and the proposed emergency legislation which is presently before you.

Southern Natural Gas Co. is a natural gas pipeline company selling gas principally at wholesale across the Southeastern United States. It is regulated by the Federal Power Commission.

Southern Natural purchases gas in east Texas, north Louisiana, Mississippi, but principally in south and offshore Louisiana in the Gulf of Mexico. It transports that gas through approximately 7,000 miles of pipeline across Mississippi, Alabama, Georgia, and into South Carolina. Branch lines serve a small portion of Tennessee and Florida. Southern Natural sells a vast majority of its gas at wholesale to 116 local gas distributors who in turn resell that gas to residential, commercial and industrial consumers. Southern Natural sells a small portion of its gas (about 9 percent in 1976) directly to industrial customers.

Southern Natural is presently operating pursuant to an end-use curtailment plan established by the Federal Power Commission for use on Southern's system. The plan allocates gas to distributors based on the use to which the gas is put by the ultimate end user.

This winter Southern's service area has encountered the most severe winter ever recorded. The last quarter of 1976 was the coldest such quarter ever recorded in Southern's service area, 45 percent colder than normal. The month of January, 1977, has exceeded even that, running about 55 percent colder than normal through January 27. The cold weather Southern has encountered has resulted in unprecedented residential and commercial demands and has required Southern to use up its stored gas at a rate which threatens service to the highest priority uses on Southern's system.

For a number of years Southern's gas reserves have been declining because Southern has been unable to purchase in any one year any where near the amount of reserves consumed on Southern's system. Because of this decline in gas reserves, Southern in 1972 established a major storage field on its system where gas may be injected during the summer and stored to be available to meet the residential and commercial heating load experienced during the winter.

Up through the winter of 1975-76 Southern had not been required to utilize a significant portion of its stored gas. Nevertheless, because of the continuing decline in Southern's reserves and the mildness of the winters experienced after Muldon was completed, Southern embarked on a major expansion of the Muldon Storage Field to ensure protection of high priority requirements this winter. Southern expanded the field storage capacity by 22 percent and increased its peak day deliverability by 63 percent during 1976. Thus, Southern entered this winter heating season with a significantly expanded storage field which was completely full and Southern anticipated that the expanded design capacity was more than adequate to supplement its supply from gas fields and meet the high priority requirements of its customers. The cold weather which Southern encountered, however, produced unprecedented residential and commercial demands which required unprecedented withdrawals from the Muldon Storage Field.

Southern reported to the Federal Power Commission in mid-December that it was in an overdrawn condition at Muldon Storage Field which could result in significant problems without a moderation in the weather. At that time, Southern began an intensive—but unsuccessful—research for emergency gas supplies. Unfortunately, beginning just before Christmas, Southern encountered a string of extremely cold days. The system mean temperature on 16 out of the 33 days between December 21 and January 22 was at freezing or below. This unprecedented series of cold days, with no intervening warm winter days typically experienced in Southern's service area, seriously depleted the Muldon Storage Field.

Toward the end of this period, on January 6, Southern began experiencing an extended severe cold wave. The system mean temperature was 37° on the 6th and continued with consecutive days of 34°, 36°, 35°, 22°, 22° and 32° before moderating to 40° on January 13. On January 9, Southern, which had been allo-

cating gas since the last week in October only for priorities 1, 2 and 3 of its 9 priority FPC curtailment plan to conserve storage, was forced to curtail into priority 2. By January 11, Southern had been forced to curtail 100 percent of priority 2 and was allocating gas only for residential and small commercial requirements. After two days at a 40° mean temperature, another cold wave hit Southern's service area with a temperature of 38° on January 15 which dropped to 23° on January 16.

Beginning on January 17, the cold wave produced four days of unprecedented consecutive low system means—with the system mean temperature not rising above 20° on January 17, 18 and 19.

Southern began to receive emergency assistance from other pipelines on January 11. Despite these emergency supplies and its efforts to obtain additional emergency supplies, on January 18 Southern's total supply was only 1,992,000 Mcf/d and allocated priority 1 requirements on its system were approximately 2,026,000 Mcf. Southern actually sold 2,080,000 Mcf on January 18, or about 88,000 Mcf/d in excess of its available supplies. Consequently, Southern's pipeline inventory was reduced with a corresponding reduction in its pipeline pressure. By the end of the day on January 18, Southern's pipeline inventory had declined to the critical level and was continuing to decline. In order to avoid complete loss of the pressure necessary to maintain deliverability, Southern instituted a curtailment of approximately 9% of its priority 1 requirements (residential and small commercial) to be effective at the beginning of the next day, January 19.

Even with this unprecedented curtailment into priority 1 Southern's inventory continued to decline. However, on the 19th Southern was able to introduce approximately 110,000 more Mcf into its pipeline by increasing its emergency supplies. With this increase in gas supply, Southern's inventory stabilized at the critical level and Southern was able to maintain deliverability of the 91 percent allocation of priority 1 quantities to all of its customers throughout the 19th and the 20th. However, Southern's pipeline inventory did not begin to improve and remained at the critical level for almost 24 hours until the temperature moderated slightly the afternoon of the 20th. As a result of the moderation of temperature on the 20th, and receipt of new emergency supplies beginning late on the 21st, Southern's pipeline inventory began to improve. Southern was still, however, withdrawing from Muldon Storage Field at near the maximum rate, which was resulting in a further decline in the inventory of working or top gas and deliverability from Muldon.

At this time, a number of Southern's distributors notified Southern that their peak shaving supplies were either exhausted or at critically low levels and that continued curtailment of priority 1 would completely exhaust peak shaving supplies in the next two or three days.

All of Southern's large distributors as well as many of its small distributors have historically served a large percentage of their priority 1 load with peak shaving supplies principally from propane-air plants and in a few instances from pipeline LNG plants. If these peak shaving supplies are exhausted, particularly the peak shaving supplies of Southern's larger customers, there is absolutely no way a disaster on Southern's system can be avoided.

With the moderation of the weather, Southern was able to terminate the curtailment within priority 1 and commence serving 100 percent of priority 1 effective beginning the day of January 21. However, Southern sent a telegram to its customers that same day explaining why the curtailment within priority 1 had ended but emphasizing that the critical gas supply situation was still very much with us.

Southern has made every effort to alleviate its current gas supply crisis with emergency gas arrangements. Southern has contacted over 150 sources of gas supply as part of this effort. These sources include every major and small producer known to us, every pipeline which would even conceivably have gas available for use by Southern, and many distributor companies known to Southern to have gas storage facilities. Southern contacted senior officials of every major producer at least twice and is in daily contact with pipelines who might conceivably provide help to Southern. Several of the pipelines contacted indicated that they cannot provide Southern with gas on a regular basis but that they will try to help should Southern begin to lose pressure to the point of failing.

The cooperation which Southern has encountered in alleviating its critical situation has been excellent. On the second day Southern was curtailing into priority 1, Southern received 310,000 Mcf (15% of full priority 1 requirements, or 17% of that day's curtailed priority 1 requirements) from five other interstate suppliers and one distribution company, with several other pipelines cooperating in the transportation of this gas.

Other pipelines have informed Southern that should Southern's pipeline system reach the critical level and approach failure again, they will render Southern such aid as they are able. If this Congress is able to develop a means to allow such shifts of gas between pipelines on a voluntary basis and at the same time insulate the pipeline providing aid from liability, the public interest will be best served.

In addition to the five pipelines which have provided Southern the bulk of its aid, two other suppliers have rendered additional assistance. One intrastate distributor has provided Southern with substantial aid and one electric power company has provided Southern with substantial aid by allowing Southern to displace gas burned by it with fuel oil and making the gas available to Southern's system. Southern is currently working on somewhat similar arrangements with three other electric power companies.

Southern has pursued every source of gas known to it. However, Southern has had very limited success in purchasing gas because there is very little undedicated gas on either the interstate or intrastate markets.

Again, I would like to emphasize that the cooperation and help that Southern has encountered during this very critical situation has been extraordinary. This includes not only the pipelines and other entities from whom Southern was seeking gas but also the Federal Power Commission and the Federal Energy Administration which have labored late at night and on weekends to issue orders within the current statutory authority afforded them to allow Southern to take the necessary action to attach emergency gas.

In addition to Southern's efforts to locate gas for itself, it has made a major effort to aid its distributors. As I stated earlier, the category 1 curtailment instituted on the 19th and 20th of January had a drastic impact on the propane supplies of our major distributors.

An example of what occurs if a distributor exhausts its propane supplies is the January 19 experience of the City of Tallahassee, the state capital of Florida. The distributor serving that city is served by Southern's wholly-owned subsidiary, South Georgia Natural Gas Company. Due to the serious curtailments that Southern and South Georgia had instituted on the 19th, Tallahassee exhausted all of its peak shaving supplies on the afternoon of the 19th. Tallahassee immediately began to overrun its allocation from South Georgia but the unprecedented low temperatures in the area resulted in the residential and commercial demand in Tallahassee exceeding the capacity of South Georgia's line to Tallahassee. For this reason, Tallahassee's pressure continued to fall in spite of taking all the gas that the capacity from South Georgia allowed it to take and it was only through the quick reaction of Florida Gas Transmission Company, which installed an emergency connection from its pipeline to the distribution system on the other side of town, that pressure was sustained in the distribution mains at an adequate level to prevent total interruption of service to all the customers in Tallahassee.

Southern has instituted a major effort to locate propane supplies and transportation therefor for those customers and to obtain the waivers from the Federal Energy Administration necessary to improve the propane supplies of those distributors. To date Southern has had limited success in locating transportation for about 10 distributors which had propane allocations. The continuation of this transportation is, however, uncertain.

Southern's current status is that it has withdrawn approximately 35.7 Bcf from the Muldon Storage Field which equals about 69% of the 52 Bcf design capacity of that field in the first 57% of the winter. The unprecedented withdrawal from Muldon has resulted in a major decline in deliverability from Muldon and has threatened Southern's ability to meet the peak day residential, small commercial and other essential requirements on its system which cannot safely withstand curtailment.

Mr. DINGELL. Gentlemen, we are trying to figure out whether we proceed to the questions or whether we break for lunch. Do you have preference?

I am sure all of you have engagements elsewhere.

Mr. SEDER. Mr. Chairman, there is nothing more important than what is going on in this room so we would like to stick with it.

Mr. HEAD. Unless we can give you more information after lunch.

Mr. DINGELL. I think we would all be well served if we did recess briefly. There is some discussion—I would like to have our staff talk with yours during lunch to try to get clarification.

If it meets your approval, I would like a recess.

Gentlemen, with thanks, we will recess and we will be here at 2:30.

[Whereupon, at 1:45 p.m., the subcommittee recessed, to reconvene at 2:45 pm. the same day.]

AFTER RECESS

[The subcommittee reconvened at 2:45 p.m., Hon. John D. Dingell, chairman, presiding.]

Mr. DINGELL. The subcommittee will come to order. The Chair observes that at the time the subcommittee recessed, we were hearing from a distinguished panel of representatives of the pipeline industry and the prepared statements were concluded. We will now recognize members of the subcommittee for purposes of asking questions.

The Chair might go into the one rather thorny question that impressed us at a time earlier. This was the question of compensation for gas taken. As the Chair recalls, Mr. Seder addressed himself to it; Mr. Head also. Gentlemen, any of you who so chooses might give us your thoughts and judgment as to the fashion in which we could best proceed in terms of drafting the compensation sections with regard to gas taken under the allocation procedures of the proposal.

Mr. Seder, would you like to answer first?

Mr. SEDER. On page 10 of my prepared statement, Mr. Chairman, I have proposed some specific language that I think would meet the concerns that we have expressed. The problem with the language of the bill is that the pipeline delivering gas under an order of the President would only—

Mr. DINGELL. Excuse me just a minute. We have a problem with noise in the room. The Chair asks that our guests respect the hospitality of the committee and allow the witnesses to be heard by the committee.

Would you continue?

Mr. SEDER. The problem with the bill as it is written in section 4(f)2 is that it only attempts to compensate the pipeline for the actual gas cost of the gas that is taken away from it but, as I indicated in my statement, that only represents about 60 percent of the pipeline's total costs, so when it loses that sale, in order to be made whole it must receive not only its cost to purchase gas but also the other 40 percent of its cost that goes to pay taxes and operation and maintenance and capital costs, and so on. So if the intent of the bill is to make whole the pipeline delivering the gas, this bill does not do it.

The second and related point is that I think it is the intent of the bill—with which we certainly agree—that you should not simply replace the gas at the average cost paid by the delivering pipeline. If I could give an example on our system, I think I can indicate what I mean.

The average cost of gas which the Michigan-Wisconsin pipeline pays is around 60 cents but a part of that average is made up of gas which it purchases from Canada at \$1.92 cents a thousand cubic feet.

If we were called upon to transfer gas to some other company, we should be compensated on the basis of the \$1.92 gas, our highest incremental cost of gas, rather than the average cost.

So there are two elements of section 4(f)2 that require revision, as we see it. Now that excess of \$1.92 over \$0.60, in my example, we feel should then be flowed through to our customers.

We do not propose to make a nickel's worth of profit on that and that could be accomplished through section 7 with an appropriate amendment. Again, we have suggested language to accomplish that.

Mr. DINGELL. Thank you.

Mr. Head, do you have a comment to make?

Mr. HEAD. Mr. Chairman, I would say that Mr. Seder's proposed technical changes in the language have been reviewed by my company and a number of other pipeline companies. All of us concur in his suggestions and think they are worthwhile.

Mr. DINGELL. Gentlemen, the Chair thanks you.

The Chair will recognize members of the committee for purposes of asking questions. The Chair recognizes my friend and colleague, Mr. Brown.

Mr. BROWN. First, I would like to find out the extent of curtailment—percentage of curtailment—of each of the four pipelines. I know Mr. Clarke represents Columbia Gas and they serve our area and are extensively curtailed now, but would you give me the percentage of curtailment in each of the areas you serve?

Mr. CLARKE. Congressman Brown, I am afraid my answer is going to be lengthy.

Mr. BROWN. Try not to, because I have several questions.

Mr. CLARKE. We serve in seven States. Each of the individual commissions have a different method of allocating the gas, but let me—

Mr. BROWN. I am interested in the percentage of your curtailment at present.

Mr. CLARKE. Let me give you Ohio. Large industrial boiler loads are curtailed 100 percent, large substitutable industrial loads 100 percent, large non—

Mr. BROWN. Perhaps I could ask the question a different way. What percentage of distribution are you unable to meet at present? What percentage of your contract distribution?

Mr. CLARKE. Approximately 25 percent.

Mr. BROWN. Mr. Seder?

Mr. SEDER. Mr. Brown, our pipeline is curtailing its customers about 12 percent below their contract, annual contract requirements, but let me say this: This is the trouble with any simplistic approaches to this because we started out with less of an industrial load than most other systems to start with, so when you apply a percentage against a different base of industrial versus residential markets—

Mr. BROWN. I don't mind your submitting for the record this lengthy explanation but I am trying to get at a general figure of percentage of curtailment so I can see whether we have heavily curtailed pipelines or pipelines that are not curtailed. The difficulty here is, I was asking a simple question to just get a general impression.

Mr. SEDER. It is not a simple question.

Mr. BROWN. I will take back the question and ask something else. Could you tell me, Mr. Head, what your percentage is?

Mr. HEAD. Yes. Our percentage—and this is throughout the pipeline—is approximately 20½ to 22 percent.

Mr. BROWN. Mr. Smith, could you tell me?

Mr. SMITH. I could answer a different way.

Mr. BROWN. I want a percentage, if you can do it.

Mr. SMITH. It is a function of weather, Congressman; on a cold—

Mr. BROWN. I know that. Could you tell me what it is right now?

Mr. SMITH. I would say right now about 20 percent today.

Mr. BROWN. This bill grants broad authority to the President without very specific statutory guidelines. Would you support an amendment that would set out with more precision which pipelines have to give up gas by requiring that the Government first turn to pipelines still supplying boiler fuel, then to those supplying priority 3 and so forth.

Mr. SEDER. We would not support such a proposal.

Mr. BROWN. Why not?

Mr. SEDER. Because the whole purpose of this legislation is to permit the President or his designee to get together with the pipelines—those who are requesting gas and those from whom it may be requested—to sit around and try to get at this problem in a practical way. We can't if you are going to spend 2 weeks drawing up regulations and go through all the other procedures that have stymied action at the Federal Power Commission.

Mr. BROWN. How is that decision going to be made? Some of us represent individual constituencies and are nervous about giving the President total authority to cut a deal. I want to know what guidelines he is going to use. I was advised by the Federal Power Commission that they were not sure about the guidelines or whether there would be any new process.

Mr. Clarke represents an area which serves my constituency and my constituency is in deep trouble with industry closed and with schools closed.

I don't know whether we are in a give-or-take area and I think other Members of Congress have the same trouble with this legislation. How would you make those decisions?

Mr. SEDER. We are beyond this point where you can make general regulations and state general propositions that will be automatically applied. I think it is absolutely essential that all of the parties involved, whether they are give-or-take pipelines, get together at one time with the President's designee and go over the situations on each system item by item and that is the intent of this proposal.

It is not only the availability of gas. I think in the ultimate solution of this question you are going to have to take into account the availability of all other forms of fuel, too.

Mr. BROWN. How long do you think it will take for whoever makes that decision—and I hasten to point out there is nothing in this legislation that invites the President or requires the President to get you all together to discuss it. But how long do you think it will take to make that decision? That is the question. Does this legislation solve a problem or are we still going to be talking about this when God brings the crocuses through the snow?

Mr. SEDER. The whole intent of the legislation—and I think this is borne out by Dr. Schlesinger's statement—is that the pipelines will get together with the President's designee—and that is provided

in a section of the act, section 4(d)—and the whole theory of it is that these problems are too complex to be done on the basis of stale data and uninterpreted data.

The only way to do it is to get people who can speak for each of these pipelines together and go around the room and find out what the problem areas are, what are the practical ways of meeting them, and who is going to give gas to whom.

Mr. BROWN. Could the President do that, get the pipeline companies together without the authority of this legislation?

Mr. SEDER. He could, I suspect, but the purpose is once this decision has been made in this joint group approach, then it is issued as an order of the President which confers this damage suit and the antitrust immunity without which we cannot start giving away our customers' gas.

Mr. BROWN. Has the President been in touch with any of you?

Mr. SEDER. We met with Dr. Schlesinger and the chairman and Senator Stevenson to discuss the proposition.

Mr. HEAD. Our problem, Congressman, is that, as you have ascertained, all of us are curtailing. Every pipeline is curtailing. Any gas which we give up is gas that our customers have a contractual right to. If we voluntarily, during these times of severe shortage, give up our customers' gas, our customers obviously have a very good and legitimate lawsuit against us for giving up their gas, so someone has to look at the entire picture and decide who should give up the gas. We are at our wit's end now to voluntarily take many more steps other than we are now taking, and we are taking plenty now.

Mr. BROWN. When an industry is forced to close down and lay off personnel that might be paid or not paid as a result of action taken out of this legislation, should there be some procedure whereby they have the opportunity to express their position or get new compensation?

Mr. HEAD. This legislation permits the President to call in not only the interstate pipelines but the distributors and presumably he is entitled to call in local distributors under this legislation, and he could call in the industries, if the distributors don't represent the industries, he could call them in, too. I would hate to see such a gigantic meeting.

Mr. SEDER. I, and each of these gentlemen, who have represented the areas we serve are going to make every effort we can to keep as much gas for our areas as we can. It may not be the best personal representation but I am going to do the best I can to keep all the gas we supply to Michigan in Michigan.

Mr. BROWN. We don't have any and I would like to have some of your gas.

Mr. SEDER. If we give any up it is because I am convinced it is better used elsewhere.

Mr. BROWN. I have been advised my time is up.

Mr. SHARP. The Chair recognizes Mr. Broyhill.

Mr. BROYHILL. The gentleman from Ohio is referring to the subject I brought up this morning, to provide some guideline in the legislation on how the gas and in what order the President would divert gas, and I was suggesting that the first gas that would be diverted would be the gas that is being burned as boiler fuel—that is where it is being burned and no alternate. We would not take gas where there

is not alternate fuel available but if alternate fuel is available and being burned as boiler fuel, that would be the first diverted.

If there is no boiler fuel gas available, then the President would order diversion of gas and under FPC priority 3 after that gas has been diverted, the President would order diversion of priority 2 gas. This was an orderly procedure that seemed reasonable to me, that would be more fair to all.

I regret because of other obligations this was a little late. I don't know if they got specifically to that proposal or not. Could I have some comment from perhaps Mr. Clarke or others on that proposal?

Mr. CLARKE. Congressman Broyhill, Congressman Brown was asking this question. Mr. Seder said that time would not permit drawing such guidelines. I feel that with or without such guidelines the procedure that you have just described is the one that is going to take place.

If an individual company—this act first only covers high priority uses which is almost to say human needs—and if someone has a need of gas for human needs I would assume that the President or those to whom he delegates the authority under this act, would go down the established priority listings of the Federal Power Commission starting with boiler fuel and proceeding down to priority 3 and then to priority 2 and that it would take from any pipeline that had boiler fuel and use that up before it went to another pipeline who was in some higher priority.

I would assume that is the way the procedure would work, and absent consuming a lot of time in establishing or describing such a procedure, speaking for Columbia I would have no objection.

Mr. BROYHILL. My concern is there is no agency in town that has been in court any more than the Federal Power Commission. We are going to leave this thing in such a way that this act is going to be in the courts for years to come and instead of helping people get gas, we are just going to make a fortune for the lawyers around town, and it would seem to me that we could do everybody a favor by being more explicit as to what the congressional intent here is, and save a lot of litigation in the courts.

Mr. SEDER. Mr. Broyhill, I think most of the litigation that has occurred at the Federal Power Commission is exactly because they have tried to set out these general standards and then they spent 4 or 5 years litigating who comes within each category. It is that kind of controversy that we are trying to avoid.

We are trying to approach this as an emergency situation that is going to end April 30 and that somehow or other we have to get together in a practical way to meet it. I don't think setting general standards and then trying to decide whether industry A falls into one or another is the way to do it. And just to give you an example of the problems that I foresee with it, suppose our system was required to deliver 50 million cubic feet a day to some other system? It might be much in the public interest that we shut down industries in order to provide that gas on a basis different from the priorities that you might establish by general regulation.

What might be much better in the public interest in Michigan is that a small boiler fuel customer be permitted to keep going, if to take his gas away would shut him down, if the gas could be provided through some other lower priority customer.

So I am saying that the whole approach of this legislation is that the pipeline industry will in effect voluntarily attempt to meet this problem under the aegis of the President's designee and that this is the only practical way that we are going to meet this problem.

MR. SHARP. The Chair recognizes Mr. Krueger, from Texas, for 5 minutes.

MR. KRUEGER. Gentlemen, we appreciate your being here. I should like to direct three different questions to the panel. The first is this legislation allows an intertie with the intrastate system so that for the movement of gas between interstate pipelines there can on occasion be the use of intrastate pipelines.

I am wondering, am I not correct that for many years the interstate pipelines have in fact been moving the gas from one interstate pipeline to another and if this is correct, is there need for this very costly interconnect system with the intrastate system.

MR. SMITH. I would submit to you, Congressman, that there is such need and I would prefer not to identify a specific company, but we have a situation now where we could move a substantial amount of gas from one area of the United States to another getting it into our system and if we could move it through an intrastate system which exists it would greatly facilitate that transportation.

Because we cannot do that, we in effect have to go through two or three other pipelines and we are not going to be able because of capacity limitations in those lines to get the full quantity of gas that we otherwise would.

This is gas which would be diverted and we would pay the replacement cost for a boiler fuel load and they have an alternate fuel capability, but it would be diverted and we would pay the replacement cost for a boiler fuel load and they have an alternate fuel capability, but it would greatly facilitate this kind of situation if we could move that gas through the intrastate system, and I said before, sir, I would hope this provision would remain in your bill.

It does not envision costly interties, as I comprehend it, of any kind. There may be a matter of small interconnection but it would not be expensive.

MR. KRUEGER. In connection with boiler fuel, you just mentioned I was told that Southern Natural as late as December 21 was still selling its natural gas for boiler fuel use. I wonder whether this is correct?

MR. SMITH. I would categorically deny that, Congressman, insofar as the FPC's priority systems are concerned. We have not since the beginning of the winter heating season, which was essentially November 1, sold any gas at any lower priority use than priority 3 on the FPC's priority system.

We do not, sir, have control over what our distribution purchasers do with the gas after it gets in their systems and it is possible—and I cannot testify of my personal knowledge one way or the other—that some of those companies may on some days have utilized some of the gas which they were receiving under our allocation system in priorities 1, 2, 3 for sale as boiler fuel loads, but I don't think the volume, if they did it at all, is much.

MR. KRUEGER. Do the various pipelines have adequate knowledge of how the gas they sell is used? I can understand that by and large,

and I think I see Mr. Head shaking his head, "No, they don't." My understanding is that you have a rough notion in terms of selling, that something is told to you to be priority 1, 2 or whatever, but the fact is we have very little data about how the natural gas is used, whether or not it is used by residential, small business, or some form of industry or something else.

Is this correct, then, that we have little knowledge of how the gas is actually used in terms of its end use?

Mr. SMITH. I think we have a good feel for that on our system but again we have no precise control over what the distribution company does with it on any given day.

For example, should they feel like doing it they can use synthetics or supplemental gas facilities to provide uses other than comparable to our category 1, 2, 3.

Mr. HEAD. Congressman, most of our customers have other supplies from other pipeline companies, their alternate fuels and whatnot, so that we although we have some general ideas as to the loads they are serving, we do not have concrete information.

Only when they get in trouble and are about to curtail priority 1 and 2 do they then tell us—and they assure us at that time they have all other loads cut off—but we cannot tell you definitely what loads they are serving on any day.

Mr. KRUEGER. I should like to know in that connection whether you have information about the alternate fuel capabilities of some of the large customers that you serve.

Mr. HEAD. We have, yes, general information. We always know the types of alternate fuels they have available to them but whether they have the plants in operation or not is something we do not know on a day-to-day basis.

Mr. KRUEGER. Mr. Seder.

Mr. SEDER. I was going to say during ordinary times the practice of the pipelines has been simply to indicate either by contract or by curtailment to their customers how much gas is going to be available and then it was up to them to decide how it should actually be burned, but in this crisis period, emergency period, we are getting very close to those customers on a daily basis so we have a much better feel because we are talking to them virtually daily as to what loads the distributors are actually serving and also what the alternate fuel availability is in the areas that they serve.

Mr. KRUEGER. Could you give me an idea since I understand that yours is probably the gas-richest pipeline in the interstate system—

Mr. SEDER. I want to disabuse you of any such notion.

Mr. KRUEGER. It is one of the richer, then, perhaps. Could you give me an idea of what kind of effect you expect it to have on your customers if this bill should pass?

Mr. SEDER. I will be happy to do so. If the weather remained normal from now until the end of the heating season—

Mr. KRUEGER. Which it probably won't.

Mr. SEDER [continuing]. And if we don't suffer diminution of supplies from the producing fields because of freezeoffs and if we had no gas allocated away from our system, we could probably meet the firm needs of our customers, industrial as well as commercial, and residential. But if any one of those three things does not happen in that way, we are going to be shutting down firm industrial customers, too.

Mr. KRUEGER. This is without sharing any of the gas you might have with other interstate pipelines?

Mr. SEDER. Yes.

Mr. SHARP. The time of the gentleman has expired. The gentleman from Ohio, Mr. Devine.

Mr. DEVINE. I will defer to the other gentleman from Ohio.

Mr. BROWN. All of our pipelines purchase gas in the marketplace; is that correct?

Mr. HEAD. Yes.

Mr. BROWN. As such, I assume you have some reasonable picture of how much gas is available in producing States where you historically make gas purchases. What is your assessment of how much gas you can purchase in terms of meeting your deficiencies in the provisions of the law which I understand allow you to purchase gas until July 3?

Mr. CLARKE. Not under the provisions, Mr. Brown. Not under the provisions of this act. But we have been striving to purchase emergency gas since November 15 or thereabouts and the free and unencumbered gas that we have been able to find in Texas, Louisiana, Oklahoma, et cetera, amounts to about 12 billion to 15 billion cubic feet. That is—putting it in perspective—that is to be measured against an excess drawdown on our storage system thus far this winter of 90 billion cubic feet.

Mr. BROWN. So it is a relationship of 12 billion to 90 billion. What do you mean “free and unencumbered gas, that which is not already committed to contract”?

Mr. CLARKE. Gas not committed to interstate commerce. Intrastate gas in each of the States I mentioned and we were able to make emergency purchases.

Mr. BROWN. Now what price was that? Was that at the frozen price of \$1.42 or at the previously frozen price of \$0.52, or what price?

Mr. CLARKE. All of these emergency purchases were in round numbers \$2 per Mcf at the wellhead.

Mr. BROWN. Market price?

Mr. CLARKE. Yes, sir.

Mr. BROWN. And your need is 90 billion and you could get only 12 billion of that?

Mr. CLARKE. More or less.

Mr. BROWN. At market price. Mr. Seder, you don't have to buy it because you are in good shape; aren't you?

Mr. SEDER. No; we have to buy it like anybody else. Our storage needs are drawn down like anyone elses. I have no figure to give you, Mr. Brown. We think there is a significant amount of intrastate gas that would be available.

Mr. BROWN. Supply for the record the justification of it. Mr. Clarke has been out in the market looking, I gather, and has experience to establish the figures that he gave. Would you supply some figures for the record and justification for those figures?

Mr. HEAD. Mr. BROWN, at the present time from one pipeline that I know of, an intrastate pipeline is delivering between 250 and 300 million a day by way of emergency sales today in the State of Texas. That is a 60-day emergency sale and presumably if we do not have an extremely cold winter, that gas will be available to other pipelines at the expiration of the sale.

Mr. BROWN. What do you mean "if we don't have an extremely cold winter"? What will happen if the winter is extremely cold?

Mr. HEAD. In the area in which the gas is produced—

Mr. BROWN. Which is where?

Mr. HEAD. Which is Texas, if we continue to have cold weather there substantially all of the available supplies in Texas will be required to meet the needs of the consumers in Texas. There is very little gas available there today.

However, I wish to add that this summer I think that rather substantial quantities of gas can be made available from the intrastate market to the interstate market if this bill is amended as we have suggested, section 6.

Mr. BROWN. You mean the time is extended?

Mr. SMITH. We have been in the market since early December endeavoring to buy supplemental natural gas on an emergency basis and we only received a trickle. About less than 1 percent, sir, of the total average daily through put in our system comes today from emergency purchases which we have been able to make from producers in the field.

We have gotten loans of gas from other pipeline companies which had a little extra gas to give us—and from one distribution company—and we have been able to displace boiler fuel which was being burned where there was alternate fuel capability, get the natural gas by paying the utility company the replacement cost of the oil which it would use instead, and that is where the significant help has come to our system.

Mr. BROWN. I understand that it has been proposed and it is in the legislation, too, that there be ceiling prices set on this gas. Is your feeling that you will get more or less gas if a ceiling price has been set? I assume that you are all telling me that the 180-day provision or the 31st of July provision won't be terribly effective in stirring up new gas. Is that correct?

Mr. HEAD. That is correct. If the ceiling price is established by the President that will severely restrict our ability to buy gas.

Mr. BROWN. Should that provision be taken out of the bill?

Mr. HEAD. In my judgment, yes, but if you want a ceiling I have suggested a ceiling which is the going market price. If that is politically what you need, I think we can buy gas at that price.

Mr. BROWN. Relative to setting that intrastate market price the Federal Power Commission currently has no authority over intrastate market price. How do they get the information that enables them to set the market price? Why don't you let the market set the the market price? The Federal Power Commission has for 20 years set the cost-based price and it has always been 3, 4, 5, or 10 years behind the market and the result is you don't have any natural gas in the country available even to the intrastate market in some instances.

Now if that is such a wonderful record for the FPC, how are we going to get them to set the market price when they don't have information on what the market price is?

Mr. SEDER. We are suggesting this bill be amended so Congress would set the ceiling price.

Mr. BROWN. Congress will do better than FPC?

Mr. SEDER. Just a minute. We suggested that it be set at the average of the three highest prices.

Mr. BROWN. How do you get that information?

Mr. SEDER. It is not hard.

Mr. BROWN. Where does the FPC get it now?

Mr. SEDER. It is available.

Mr. BROWN. Where do they get it now? Do they have it now?

Mr. SEDER. Yes; they have it and they make surveys, but let me be practical about it. Most of the gas we would have would be from intrastate pipelines such as Houston Natural or Oklahoma Natural. Our proposal is we would pay for intrastate gas the average of the three highest prices that they pay their producers, intrastate. Now that is not hard to get.

They would provide that information for us without any question. I don't think there is a practical problem in establishing what the three highest prices being paid for intrastate gas are.

Mr. CLARKE. We have been into this a time or two in emergency purposes. We leave the burden of proof to the producer. He has to present persuasive and convincing evidence of what the three highest prices, going price in the marketplace for the particular region.

Mr. HEAD. I have one alternative. If anyone believes there is that problem you could establish a ceiling price equal to the Btu equivalent to upper tier domestic crude which is about \$2.04.

Mr. BROWN. Frozen by law today?

Mr. HEAD. Yes; there would be no appeal from that ceiling price and we could buy gas at that price, plus 10 percent for intrastate pipelines for handling and moving gas to our systems.

Mr. SHARP. Gentlemen, we appreciate very much your testimony and patience. Mr. Moorhead, I am sorry I didn't see you come in. Do you wish to be recognized for 5 minutes?

Mr. MOORHEAD. Mr. Head, I was interested in the reply that you gave a few minutes ago. You don't believe there is any gas in Texas and in that part of the country that could be used to help alleviate this shortage we have now?

Mr. HEAD. As of today; no, sir. As of tomorrow, there might be some. It will depend on the weather.

Mr. MOORHEAD. If we pass legislation that gives the President a right to decontrol as far as the price is concerned and allows an adequate amount of money for shipment of gas in interstate commerce during this emergency, you don't think it is going to produce any gas in that part of the country?

Mr. HEAD. The gas that can be produced in that part of the country will be gas that is temporarily surplus to the needs of the consumers in that part of the country. This summer as I have stated—particularly if we have, say, a mild summer—as long as the temperature stays at 75° where you don't have any heating load and any air-conditioning load—we will have appreciable quantities of gas that we will be able to buy for storage purposes.

Mr. MOORHEAD. As I understand it, at the present time there are gas companies in this country that are voluntarily giving up some of the gas that they have under contract to some of the other gas companies that have a difficult time. If an adequate amount of money could be paid to some of the users in Texas who have a low priority,

don't you think they would permit some of that gas to be shipped out to these areas in the Northeast that are freezing to death?

Mr. HEAD. To the extent they have alternate fuel capabilities and the alternate fuels are available and the price could compensate them for that fuel, they would be delighted to help this country out.

Mr. MOORHEAD. If I understand your answer a while ago correctly, you are not too wild about the idea of voluntarily setting allocations yourself; is that right?

Mr. HEAD. I don't think my customers are going to be happy about my voluntarily giving up their gas.

Mr. MOORHEAD. But your customers are the gas companies and if they can agree to do that and if they can voluntarily allocate it, that is all right with you; is that correct?

Mr. HEAD. Yes; and these are the measures which we have been taking this winter and in past winters, but we have about used up these measures because the winter has been so bad and everybody is so short we are unable any more to handle it voluntarily, we think.

Mr. MOORHEAD. I have no further questions.

Mr. DINGELL. Gentlemen, we appreciate your assistance in this matter and we will now move along to another panel. We are going to break our schedule just a little bit here and hear from a Member of the House of Representatives, Mr. Peter Kostmayer.

Mr. Kostmayer, we would appreciate if you would summarize your testimony and we will make it part of the complete record.

STATEMENT OF HON. PETER H. KOSTMAYER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. KOSTMAYER. It is a short statement if I may read it.

Mr. Chairman, I appear today not as an expert witness but rather as representative of one of those States which has been hit so cruelly by the winter.

Gov. Milton Shapp has well stated and documented the problem, and I want to commend him on his leadership in dealing with this crisis that besets the people of Pennsylvania.

The freezing temperatures in the Commonwealth have caused disruptions in natural gas service which have affected the lives of all our citizens. Our economy is severely threatened. I am sad to report the situation in my own Eighth Congressional District in southeastern Pennsylvania as follows:

1. All schools—public, private, and parochial—have been closed at the order of the Governor. I need not detail the effect of the school closing on not only the students but also on their teachers and working parents.

2. Of the nine major gas utilities in Pennsylvania all have severely curtailed supplies to their industrial users.

The Philadelphia Electric Co. serving several million people in the city and suburban areas has asked its 110 largest customers to voluntarily shut down today, Saturday, Sunday, and Monday. This will affect 15 employers and over 15,800 workers in my District. The prospect of further layoffs and even plant shutdowns in other areas is imminent.

For example, the Fairless Works at United States Steel—the largest employer in my district—has suspended operations at some of its facilities unable to use alternate fuels.

I ask permission to insert in the record a telegram I received yesterday from R. W. Smith, vice president and general manager of United States Steel that states the proportions of this crisis.

Mr. DINGELL. Without objection.

Mr. KOSTMAYER. United Gas Industries, a large utility serving many counties in Pennsylvania, including the two I represent, estimates that 630,000 jobs rely on its service. In an area of already high unemployment, the economic impact of such massive layoffs would be disastrous.

The utilities are attempting to maintain at least some critical loads to industrial customers. The danger, of course, is that even if plants are shut down, they must at least have fuel for maintenance and plant protection. It is possible that after this weekend they may have no gas for industrial customers. There is, therefore, a chance of permanent damage to plants as a result of frozen equipment and pipes.

3. Natural gas reserves are dwindling. Philadelphia Electric began the winter with a liquefied natural gas reserve equal to 1.2 billion cubic feet of gas. Now there are only 550 million cubic feet left, a 55 percent depletion.

The utility considers 250 million cubic feet as the lowest level to which reserves can be diminished since this amount is needed in the case of a gas main break or other disaster. There are, therefore, only 300 million cubic feet or 1 day's supply of reserve gas remaining for the winter.

There is a danger that if the pressure in pipelines cannot be maintained, a complete loss of service in some communities would result. In that event, mass care centers would have to be established.

4. The chances for a break in the weather in the near future are bleak. The U.S. Weather Service is forecasting a new cold wave for this weekend which will plunge temperatures to as low as -5° F. below zero.

In light of all these factors, it is clear there is a crisis in southeastern Pennsylvania. Prudence dictates that the Federal Government act, and act quickly to avert a disaster. The health, welfare, and safety of all Pennsylvanians is at stake.

I commend the President for acting so promptly and decisively in submitting his energy proposals to the Congress. But as the President says, this legislation will not solve our enormous and complex energy problems. What this legislation will do is to insure that no section of the country will be without essential services during the crisis.

In this regard, there are two features of the Emergency Natural Gas Act of 1977 which I feel are particularly important.

The first gives the President emergency authority to order gas shipments if there is an imminent threat of curtailment of residential service. It is alarming that we now have a gas allocation system in the country which fails in this regard. If homes, hospitals, and essential services are threatened with no heat, the utilities and gas transmission companies should have contingency plans to respond. Since it is apparent they do not, we must and should give the President the

power to order pooling and direct shipments to the areas of greatest need.

The second feature of the act I feel is especially beneficial gives the President the power to establish the price of shipped gas if the supplier and purchaser cannot agree on a price. No company should be allowed to reap unreasonable profits at the expense of helpless consumers. The inadequacies of the Nation's natural gas system should not be paid for by those citizens who are caught in this crisis through no fault of their own. This cruel winter is already taking their jobs and we should not now ask them to pay exorbitant prices for their heat.

The President on Wednesday called upon the Nation to meet this challenge. I hope the Congress meets its challenge and responds affirmatively to this legislation.

Finally, Mr. Chairman, I would like to thank you and my colleagues for the opportunity to appear here before you not as an expert witness but to inform you of the situation in that section of the country I represent.

Thank you very much, Mr. Chairman.

[The telegram referred to follows:]

TELEGRAM

JANUARY 27, 1977.

Congressman PETER H. KOSTMAYER,
Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN KOSTMAYER: I urgently request your help in getting immediate legislative action on corrective measures regarding the devastating energy problems we are currently experiencing, especially, the shortage of natural gas. The consequences of inaction are having an adverse impact on industrial operations which in turn, is having a direct effect on jobs in the Fairless Hills economy.

At our Fairless Works' Steel Production Facility, the effects of the natural gas shortages are having a major impact. We have been forced to suspend operations at some of our facilities that cannot use alternate fuels. Further natural gas curtailment on February 1, from our Philadelphia area supplier will result in more production curtailment and layoffs.

There are several reasons I am calling our energy problems to your attention. First, the situation in the Fairless Hills area from an energy availability standpoint, and particularly natural gas, is very critical. More gas is needed immediately. Second, indications are that weather conditions for the remainder of January and February are going to continue to be severe. The regrettable result is that further production cuts and layoffs will occur and the consequences will have a nationwide effect on production, jobs and the economy. Third, the time is long past for permanent deregulation of natural gas. There has to be more production at the wellheads—nothing else has worked to get more natural gas supplies. Fourth, there is a shortage of railroad cars for hauling fuel oil and coal. This further compounds the energy problem.

I urgently request your good assistance to help insure that more natural gas is made available immediately and the permanent decontrol measures be taken to encourage further gas exploration.

R. W. SMITH,
*Vice President and General Manager,
United States Steel Corp.,
Eastern Steel Division.*

Mr. DINGELL. We thank you very much. We appreciate your assistance to the committee.

Our next witness is a panel of consumers: Lee White, Consumer Federation of America; James F. Flug, director, Energy Action Committee; Charles Wheatley, general counsel, American Public Gas Association; and Mary Ann Aiello, Rockford, Ill.

Thank you all for being present with us to give us testimony on the legislation now pending before the committee and we will recognize you all in order.

We will start with Mr. Wheatley, then Mr. White, Mr. Flug, and Mrs. Aiello.

Would you each identify yourself fully for purposes of the record and then you may proceed.

STATEMENTS OF A PANEL CONSISTING OF CHARLES F. WHEATLEY, JR., GENERAL COUNSEL, AMERICAN PUBLIC GAS ASSOCIATION; LEE C. WHITE, CONSUMER FEDERATION OF AMERICA; JAMES F. FLUG, DIRECTOR AND COUNSEL, ENERGY ACTION COMMITTEE; AND MARY ANN AIELLO, ROCKFORD, ILL.

Mr. WHEATLEY. Thank you, Mr. Chairman.

My name is Charles Wheatley, general counsel, American Public Gas Association.

We wish to commend President Carter for seeking action to meet the present emergency situation in natural gas arising from the extreme, severe winter weather conditions that have engulfed much of the Nation. Interstate pipelines and distributors in many areas are advising of emergency conditions requiring severe curtailments. At the same time, the severe weather has resulted in sharply increased heating bills for consumers in the affected areas, which adversely affect the economy and economic recovery by diminishing their otherwise available purchasing power. In order to assure that one, additional supplies of emergency gas will be made available, and two, that consumers will not be subjected to unnecessary price increases and profiteering as a result of the crisis, I believe that certain perfecting amendments should be made to H.R. 2500 to accomplish its basic objectives.

1. THE PRESIDENT SHOULD HAVE AUTHORITY TO REQUIRE EMERGENCY DELIVERIES OF NATURAL GAS FROM INTRASTATE PIPELINES AND PRODUCERS

Section 4(a)(1) of the bill provides that if the President finds it necessary to assist in meeting the requirements for high priority uses of natural gas, he may during a national gas emergency declared under section 3 by order require any interstate pipeline to make emergency deliveries of or to transport interstate natural gas to any other interstate pipeline, or to any distribution company to meet the emergency requirements.

This authority to allocate gas from one interstate pipeline to another interstate pipeline to meet emergency requirements of high priority uses is beneficial. The Federal Power Commission presently has this authority¹ and certainly it is a prerequisite for the exercise of a similar authority by the President. However, the fact that the Governors of a number of States have declared natural gas emergencies, despite the presence of this existing authority in the Federal Power Commission, seems to clearly indicate that additional authority

¹ East Tennessee Natural Gas Co., Docket No. CP77-129, issued Jan. 19, 1977, mimeo. at pp. 5-6.

is required to meet the emergency situation. Most of the interstate pipelines of the country presently are curtailing their customers. While there may be some interstate pipelines that are not curtailing as severely as others and could provide some emergency assistance, it does not appear reasonable to rely on reallocating gas from one interstate pipeline to another as a sole basis for relief in an emergency situation.

Second, 4(a)(1)(B) of H.R. 2500 does authorize the President by order to require any intrastate pipeline to transport interstate natural gas to another interstate pipeline company. We submit that this section should be amended to allow the President to require any intrastate pipeline or producer to make emergency deliveries of gas to the interstate pipeline. As amended, section 4(a)(1)(B) would read as follows:

"... The President may, during a natural gas emergency declared under section 3 by order, require—

(B) any intrastate pipeline *or producer to make emergency deliveries, or* to transport [interstate] natural gas from any interstate pipeline to another interstate pipeline or to any local distribution company served by an interstate pipeline for purposes of meeting such requirements;"

Section 4(a)(2)(A) should be changed by the insertion of the word intrastate to read as follows:

"(2) No order may be issued under this subsection unless the President determines that such order will not—

(A) create for the interstate *or intrastate* pipeline delivering [interstate] natural gas a supply shortage which will cause such pipeline to be unable to meet the requirements for high priority uses served, directly or indirectly, by such pipelines;"

[New language italic, deleted language in brackets.]

These amendments to allow the President authority to allocate during a declared natural gas emergency gas on an equal basis between intrastate and interstate pipelines is essential to the effectiveness of the legislation. Such authority would permit the President to require the delivery of presently unused supplies of natural gas to meet the emergency, no matter where located in the United States.

Certainly such unused supplies of natural gas should be used first to meet any emergency, prior to the time that an interstate pipeline company that is already experiencing curtailments should be required to inflict further curtailment to make deliveries to another interstate pipeline in an even more distressed condition.

Furthermore, intrastate pipelines apparently have excess available supplies of gas which the President should have authority to allocate, before seeking to take gas from an already curtailed intrastate pipeline. Such an amendment would make all gas use within the United States on an equal footing in terms of meeting an emergency.

By the same token, if an intrastate pipeline were experiencing an emergency, the President could act under this legislation to provide relief to that pipeline. No valid reason exists why in an emergency situation all available gas supplies in the Nation, no matter where located, should not be equally available to the President for use to meet an existing natural gas emergency. We believe that this amendment is absolutely essential in order to put teeth into the bill to give the President powers to effectively cope with a national emergency situation.

2. AMENDMENTS TO PRECLUDE ANY UNWARRANTED PROFITEERING DURING A DECLARED EMERGENCY

Section 6(a) permits the President to authorize any interstate pipeline or local distribution company to contract—

* * * upon such terms and conditions as the President determines to be appropriate (including provisions respecting fair and equitable prices), for emergency supplies of natural gas for delivery before August 1, 1977.

This would appear to contemplate that the President will determine what prices are "fair and equitable." Since section 6(b)(1) provides that the provisions of the Natural Gas Act shall not apply to any such sales it is not clear what standard with respect to the pricing of such gas would be applicable.

Clearly, the President does not intend for anyone to profiteer at the expense of suffering, stricken consumers from a natural gas emergency existing in the Nation. In order to perfect the legislation and make it clear that such profiteering will not take place, we urge an amendment to provide that any such sales should take place at the applicable area or national rate, or in the alternative, at the actual cost of the gas. To accomplish this, we suggest the addition of the following language as a new section 6(a)(3):

* * * at a ceiling not in excess of the applicable national or area rate, provided that no producer or pipeline supplying gas thereunder shall receive less than its actual cost of service, including a return on equity of 18 percent.

Also, in this section, we recommend that the expiration date be made to be identical to that set forth in the emergency allocation; namely, April 30, 1977.

In the alternative, at the very least, we believe the bill, to be internally consistent, should be amended in section 6(a) wherein the President is to determine the "fair and equitable" prices to insert the similar language from section 4(f)(2) that the calculation of such prices shall not exceed the "reasonable replacement cost of such gas, as determined by the President plus not more than 5 percent of such cost."

If this amendment were made, then the emergency purchases portion of the bill in section 6 would be consistent with the emergency allocation authority in section 4 and both would be under a similar standard. We do not believe that the replacement cost standard is as good a standard as that of simply relying on the applicable national rate with a proviso that the seller can seek to demonstrate that his costs plus 18 percent return on equity exceed that level. However, this amendment would provide a uniform criterion in both instances for the President to follow.

3. NEED FOR DATA AS TO AVAILABLE GAS SUPPLIES

Finally, we suggest that as part of this emergency legislation it is imperative that the President know and determine where there are available supplies. Accordingly, we suggest the addition of a new section 4(e) as follows, with the present section 4(e) renumbered as section 4(f) and section 4(f) renumbered as section 4(g). The new section that we recommend would be as follows:

Sec. 4(e). The President shall obtain information relating to the location and amount of proved and probable natural gas reserves in the Continental United States including the offshore areas.

If there are supplies of unused gas available for delivery in emergencies such as this, the President should have the information to determine their availability.

In conclusion, we commend President Carter for his swift efforts to propose legislation to deal with the emergency. The amendments which we have suggested herein, we believe, will provide measures to make the emergency bill effective and to prevent unwarranted price increases to the Nation's hard-pressed consumers.

I thank you.

Mr. DINGELL. Mr. White?

STATEMENT OF LEE C. WHITE

Mr. WHITE. Thank you, Mr. Chairman. My name is Lee White. I am here in my capacity as chairman of the Energy Policy Task Force of the Consumer Federation of America. We are a very ad hoc coalition with a number of major labor organizations, National Farmers' Union, U.S. Conference of Mayors, municipally owned electric systems and gas systems, rural electric co-ops, and a host of other consumer groups.

I should by way of disclaimer suggest that on occasion I have been disavowed by these various groups and any umbrella organization has its responsibility. I believe, however, all of our organizations share in the emergency character of this particular meeting and of the legislation that is before the subcommittee.

The dramatic presentation this morning of the Governors from the Northeastern States plus what we have seen on television and read in the newspapers is enough, I think, to demonstrate to us this is really a critical situation.

I share, and our organizations share, the views expressed by Mr. Wheatley. I am not sure I would agree in every single detail but I don't know of anywhere I disagree. The important thing is we have concluded it would be a mistake for our organization and the ones I work with to insist that this subcommittee take the time to go through what are clearly very controversial and very, if you will, complex and complicated provisions.

I would not mind going to the matter and wrangling with a number of people over the pricing mechanisms and I believe that formulation suggested by Mr. Wheatley is as fair as could be devised.

But if we accept the premise that there are many, many thousands of people who may be unable to live in their homes because of lack of fuel or that there will be hundreds of thousands of people unemployed, we from our organization believe only that one amendment is essential and all the others ought to be sat upon and we should have confidence and trust in the President's ability to administer this program.

Now I would like to spend a half minute on what I believe to be the simplest of all amendments. That is that the entire authority of H.R. 2500 expire on April 30, 1977, rather than as is presently provided in section 6—the ability to purchase gas in the intrastate market—go through the end of July.

As we see it there are two types of emergencies. One emergency is where people are out of work and suffering the potential inconvenience and the perhaps impairment of their health by failure to have natural gas for heating purposes. It is quite a different character or kind of emergency to talk about the need for pipelines to secure natural gas to fill their reservoirs that have been depleted during this severe winter.

As a consequence, we strongly urge that the entire program end on April 30 and that the Congress get on with the business of handling the long-range, the more difficult, the controversial questions of deregulation of natural gas. I am not quite through, Mr. Chairman.

We have thought that we ought to sit on these objections simply because they would take weeks to wrangle out if the experience of the emergency bill, Mr. Chairman, that you steered through last year is any criterion. We are frankly frightened by the prospect that those who are proponents of deregulation will find it irresistible to attempt to attach such an amendment to the emergency bill.

We hope that that will not be the case and obviously should it become the situation we will indeed do everything we can to avoid that happening.

There is another aspect of this entire problem that I think is worth directing to the attention of the subcommittee and that has to do with the disappointment, if you will, in the proposal. It is not that the administration has not tried and I think they are seriously responding to it and we have to realize they have been in office just about 1 week, but anyone who is inexperienced in Washington, D.C., and with the manner in which the Government functions believes that the Executive can make a great deal of difference.

The legislation happily, I think, imposes a great deal of the implementation and the detail filling out to the President rather than to either congressional hammering out or to a regulatory body such as the FPC.

That is the way it has to be if there is to be a response to an emergency. Today our organization sent a telegram to President Carter suggesting there was a great deal that could be done by Executive order without any additional legislation. We hope that he will undertake to bring to this committee a sense of urgency and emergency that we heard this morning from the Governors.

There are many things that the President can do, not the least of which is to expedite the transportation of fuels. Perhaps the most important aspect is to know that there is fuel available but for reasons that are clear to all, mainly the weather, they can't be delivered.

In these circumstances it seems to us that it is possible to use the muscle of the Federal Government to cut through some of those problems. Just as we do where there is a flood or any other major disaster, I gather that here, too, the resources of the Federal branch, the Executive Government, ought to be put to the task of seeing to it that fuel does flow and indeed it if should not that the Federal Government is working with the States to protect those people who may not be able to pay their fuel bills and certainly to insure that there is a minimum loss of either life or physical injury or harm to homes and facilities.

With that, Mr. Chairman, I would request that our telegram to the President be made a part of the record.

Mr. DINGELL. Without objection, that is quite appropriate and it is so ordered.

[Mr. White's prepared statement and the telegram referred to follow:]

STATEMENT OF LEE C. WHITE, CHAIRMAN OF THE ENERGY POLICY TASK FORCE OF CONSUMER FEDERATION OF AMERICA

My name is Lee C. White, and I am here today in my capacity as Chairman of the Energy Policy Task Force of the Consumer Federation of America. Our Task Force has 36 member organizations (Attachment A), and our expressed purpose is to ensure that the consumers' views are included and considered in the energy policy debates currently taking place, and, in particular, within the Congress. We recognize that there is no necessary single "consumer interest" in any of the numerous issues that comprise the energy policy debates; nevertheless, we have undertaken to do the best job possible in assessing and stating the views of the consuming public and, as the broad base of our membership suggests, we do indirectly represent millions of Americans.

I welcome the opportunity to present our views on the natural gas emergency legislation proposed by President Carter, HR 2500. Clearly, the extraordinarily severe winter has put a strain on our natural gas distribution system, and when there are people unemployed as a result of inadequate supplies of gas and where there is even the potential that some residential customers will be exposed to the possibility that they will not have adequate gas to heat their homes, there is cause for alarm. All ought to respond to the emergency situation, and certainly that is true of the groups that I represent here today.

It is difficult to get a true picture of how many people are unemployed as the result of the gas supply problem. In part, this is because of the inability to know how many plants could be using alternate fuels but choose not to do so because of price, how many could not be served simply because the pipeline and distribution systems do not have adequate capacity to carry industrial gas (even if it is available) in light of the extreme demands on those systems caused by the greatly increased residential loads, and how many are caused by the inability to move propane and other substitute fuels through frozen waterways and difficult highway conditions. In any event, without being able to measure the magnitude of the emergency situation, it must be treated as a national problem and everyone must make every effort to alleviate the situation as quickly as possible.

In examining and evaluating the provisions of H.R. 2500, we believe that it is deficient in many regards and that it unwisely extends the concept of emergency to what ought to be normal situations. In brief summary, we believe that the emergency bill ought to contain the following features: (a) authority for the President to allocate gas from the intrastate market; (b) authority for the President to order certain uses of natural gas to be prohibited during any pending emergency; (c) a pricing mechanism for intrastate gas purchased under the emergency provisions which would be at the FPC national area rate (presently \$1.44 per mcf), or in the alternative, at the actual cost of the gas with an 18 percent return on the equity investment; and (d) a provision requiring lower priced interstate gas to be reserved for residential and small commercial customers.

It is our understanding that H.R. 2500 provides the emergency authority to purchase intrastate gas through July 1977, not because it will be cold and there will be threats to gas supplies in the spring and summer months, but rather because it will be necessary for the pipelines to have that authority to replenish the reserves that have been taken out of storage because of the cold winter. That, of course, is a legitimate and serious concern, but it hardly rises to the level of a sharp emergency requiring the abandonment of all protections for the consumer. For a number of years, the FPC has granted 60-day "emergency" authority for pipelines to purchase intrastate gas, a procedure that has not been challenged judicially. In light of this, pipelines ought to be reassured that if they cannot acquire adequate gas from the interstate market, those 60-day emergency provisions will enable them to do the necessary replenishing of their storage. In any event, we strongly urge that the entire emergency program, including the authority to purchase intrastate gas set out in Section 6, expire on April 30, 1977.

Accepting, however, the emergency character of the President's proposal and realizing that many of our suggestions are complicated and controversial, we would not press any amendment on the Subcommittee, other than the expiration date of April 30 for the entire program. Quite obviously, if the Subcommittee intends to open up the bill for any amendments other than the terminal date, we request the opportunity to press as vigorously as we can for the amendments described above.

A constant fear underlying the emergency legislation is that, just as in 1976, proponents of deregulating natural gas on a permanent or long-term basis will find it impossible to resist the temptation to add such an amendment to the emergency bill. Although it is of only historical interest, it should be noted that Congress would not be working on an emergency bill today if that tactic of adding a deregulation amendment had not been employed last year. It should be clear to all that those who undertake to use a truly emergency proposal as a vehicle for considering a very controversial and long-range piece of legislation are playing fast and loose with those who are or will be suffering from the emergency. We understand that President Carter intends that this emergency legislation not be used as a means of debating and deciding the longer range natural gas policy issues, but that it be enacted with the absolute minimum of delay, a position with which we are in wholehearted agreement, despite our serious reservations about the proposal.

I would like to discuss in a little more detail the amendments we believe are essential if the Subcommittee elects to open up the bill for significant amendments. First, on the question of the President's authority to allocate gas, it really makes no sense to have the authority only to take interstate gas and exclude from the allocation authority the very substantial fraction of the total gas production (nearly 45 percent) that is intrastate gas. Natural gas is a national resource and, particularly in times of emergency, ought to be treated as such. During the oil embargo in the winter of 1973-74, when Congress enacted emergency allocation authority for the President with respect to oil and other petroleum products (excepting natural gas) no distinction was made between oil that was produced in Texas and consumed in Ohio, on the one hand, and oil produced in Texas and consumed in Texas, on the other hand. If the industrial customers in Wisconsin whose pipelines are in relatively good supply situation, for whatever reason or reasons, are obliged by this legislation to run the risk of having their industrial gas users lose their gas to citizens of another state, say Ohio, to protect against possible physical danger or inconvenience to residential customers, why should not the same standards be applied to those states in which the gas is produced?

Second, it is becoming increasingly clear that as a national policy it will be necessary to restrict the uses to which natural gas can be put. Certainly during any emergency situation, the President should have authority to prohibit those uses that are clearly inferior, and on a basis which can become effective almost immediately, everywhere in the United States. If, for example, there are alternative fuels that can be used for generating electricity, it is highly improper to use natural gas for that purpose at a time when there are other plants without similar options that are being shut down because of the happenstance of the particular pipeline serving their area.

Third, any emergency situation ought to require fairness and equity. Probably the most distressing part of HR 2500 is the provision authorizing interstate pipelines to pay whatever the market requires (subject to Presidential review of "fair and equitable" rates). In emergency situations those who have control of gas reserves that are needed ought to be required to sell the gas at rates that will avoid excessive and exorbitant profits to the sellers. The FPC set a national rate that is currently \$1.44 mcf, a rate which incidentally a number of authorities believe is already overly generous, which is the base rate at which gas ought to be purchased from the intrastate market under emergency conditions. In the event any producer can demonstrate that the actual cost of production of gas that has been purchased under emergency authority is higher than the national rate, he should be afforded the opportunity to document his costs, and we would propose that a return of 18 percent on equity investment, a fairly generous return, be allowed to those producers whose costs demonstrably exceed the national rate. If citizens are asked to reduce their room temperatures to assist in the emergency, if the industrial customers of relatively well-off pipelines are asked to let their share of gas go to others in a humanitarian cause, it would be unthinkable to permit the owners of gas reserves to exploit those human needs and reap windfall profits.

Last, H.R. 9464 of the 94th Congress, which was hammered out between the House and the Senate, contained a provision requiring that residential consumers be entitled to receive the lower priced gas available in a pipeline system with the higher cost gas purchased under the emergency authority being allocated to industrial users. This is a sound principle and should be included in any emergency bill enacted now or later.

Mr. Chairman, this is a very difficult legislation. It is especially tough for a brand new Administration in office hardly more than a week to be faced with this problem, and certainly all of our member organizations want to cooperate fully with the Administration. I hope that our suggestion that the President's request for expeditious handling be honored by only the one amendment that would have the act expire on April 30, 1977, will be responded to in the same spirit by other groups and organizations.

ATTACHMENT A

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 Cooperative 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.
Texas State AFL-CIO.
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.

The PRESIDENT,
The White House,
Washington, D.C.

The Energy Policy Task Force of the Consumer Federation of America, a coalition of national consumer, farm, labor and public power organizations, urges you to declare a state of national energy emergency. Concordant with this action, we urge your implementation of major existing executive authorities to activate the FPC, FEA, DOT, ICC, HEW, CSA, and the Armed Forces into a coordinated task force to ease the crisis.

The FPC should direct its staff to process expeditiously applications of users for direct purchases of natural gas from producers. We urge you to use your executive authority to require that royalties to the US for natural gas produced from the Outer Continental Shelf be repaid in gas instead of in cash and that this gas be allocated where needed.

Further, it appears that under the OCS Lands Act (43 USC Sec. 1341 b) you have the authority to purchase and subsequently allocate all offshore gas supplies during such an emergency period.

We urge you to exercise your authority under the Energy Policy and Conservation Act to impose temporary controls on distillate products and thus restore FEA's authority to allocate these products to those most in need, since the state set-asides are largely inadequate or inaccessible because of frozen waterways and blocked highways.

Our investigation reveals that many companies in Ohio and Pennsylvania, the two states most severely affected, have ample standby propane supplies in Texas and Kansas which cannot be moved because of transportation conditions and lack of vehicles. Therefore, we urge you to direct the DOT and the ICC to do a rapid and comprehensive survey of available rail and trucking transportation and to orchestrate the movement of vehicles to carry supplies to needy areas. In the event that current transportation is insufficient, we urge you to mobilize the armed forces personnel and equipment for this purpose.

We further urge you to direct HEW and CSA to develop a plan of action for assisting low income persons, who are so severely burdened with increased fuel costs, in paying for needed fuel, and to work with appropriate state agencies to ensure that lives are not endangered during this emergency period.

The Energy Policy Task Force is always available to work with your Administration toward the resolution of this critical problem.

Yours respectfully,

LEE C. WHITE, *Chairman.*

Mr. WHITE. Thank you. That concludes my testimony, Mr. Chairman.

Mr. DINGELL. Mr. White, the committee thanks you. We will consider with a great deal of care your suggestions and counsel to the committee.

Mr. Flug.

STATEMENT OF JAMES F. FLUG

Mr. FLUG. I am James F. Flug, director and counsel of the Energy Action Committee here in Washington. I think it is vital to place this legislation in the context of what has happened in recent years. The fact is that each time during the past 2 years when similar legislation was being processed through Congress, the oil and gas industry did not want to see an emergency bill pass. They merely wanted to use it as a springboard for their desperate effort to eliminate Federal supervision of natural gas prices.

Of course, it is this supervision—when properly conducted—which assures that the entire Nation will share in the benefits of the vast disparity between the low cost of producing natural gas and the high value to users of this vital national resource. And it is this supervision which protects us from having our own domestic energy resources priced at super-high levels by the international oil cartel and its partners, the giant oil and gas companies.

Let there be no mistake: "deregulation" is now nothing more than a euphemism for piracy:

Deregulation would allow those who have hidden, withheld, and diverted natural gas from interstate markets to reap wind-fall profits in selling that very gas;

Deregulation would let those who have helped make us vulnerable to the cold profiteer more, the colder it gets;

Deregulation would replace public agency price ceilings with price floors set by OPEC and the Seven Sisters;

Deregulation would allow a few to gain benefits while the many bear the burdens of accelerated inflation and unemployment.

Yet nevertheless, this very day, we see reports that the oil and gas industry's puppets, having stopped emergency bills in 1975 and 1976, by trying to convert them to deregulation vehicles, are beating the deregulation drums again. It is obvious that they have no interest in dealing with the emergency—the worse the emergency, the better for them.

The more people who are cold, and out of work, and out of school, the easier it is to stampede the Nation and the Congress into a deregulation frenzy, even though as the industry, and every member of this committee well knows, deregulation is about as good a cure for the current crisis as death is for hangnails.

Indeed there is a crisis, and it should be dealt with—but neither panic nor panaceas will solve it. And if we lose our cool because we are cold, we will spend the next hundred years paying the price.

The key to dealing with the legislation before you is to remember what the so-called natural gas shortage consists of. It has at least five parts. I won't go into complete detail. I ask that the full text of my statement be included in the record.

Mr. DINGELL. Without objection.

Mr. FLUG. The first part is just plain capacity crunch, a pipeline system, a distribution system can just carry so much gas. When you have a 1 in 100 or 1 in 1,000 winter as we are having now, it is just the problem of getting enough of it through the system as it is on a hot day in August with an electrical system, or at Christmas Day with the phone system. The only answer to that is everybody using less so that the amount that can get through can go further.

Second, as has been mentioned, is the transportation crunch, that a system that is designed for people to switch to alternative fuels can't work if those alternative fuels are either stuck on barges and frozen rivers or otherwise unavailable because they can't be moved from one place to another. As Mr. White has suggested, the answer there is really to focus on that transportation system and make sure the highest priority cargoes are moving.

The third factor is mismanagement and inefficiency all up and down the line. You only need to look at the companies of some of the people who sat at this very table to see things that just should not have happened.

I give several examples in my statement but none is better than the ad which appeared in the Washington Post on November 9 of last year, pushing the sale of gas dryers by the distribution company that gets its gas from the Columbia Pipeline System. When we called to check on that they told us that they had been told by their suppliers, Columbia and Transco, that there were no supply problems and that they could go ahead and sell as much gas as they want. That is poor management, that is inefficiency, that is bad planning. That part of the problem is not a gas shortage but a skill shortage.

Next, we have the intrastate drain. There has been a lot of discussion of that today. I think everybody here understands it. As long as we allow the price in the intrastate market to have nothing to do with cost, to have nothing to do with any reasonable figure, then people who have a choice whether to put their gas in the intrastate market or interstate market will put it in the intrastate market and the figures show that 10 years ago twice as much as the new gas supply went into the interstate market as intrastate; in 1975, seven times as much went into the intrastate as to the national market and as a result there is a great deal of inefficient use where that intrastate gas is available.

The obvious remedy here is immediate price controls on intrastate gas, a step which this House of Representatives voted to take last February and should move quickly to initiate.

The fifth factor is what I call the Chutzpah factor—withholding in support of anticipation of deregulation. There is a Yiddish word “Chutzpah” which is usually described by the case of the boy who killed his parents and then begged for mercy from the court because he was an orphan.

The gas producers have given us a new example of this. They have purposefully refused to put gas on the market and now they are begging for mercy in the form of higher price because there is a gas shortage.

The fact is that in recent years they have hoped for and expected each year the deregulation to pass so that next year they would get a very much higher price for their gas than this year.

Without any venality, without any bad faith except of course on Federal lands and other places where they have an obligation to produce, the simple arithmetic told them it was better to hold that gas in the ground as long as they thought deregulation was just around the corner.

They can get ample profits at the existing Federal rate. In fact, of course, there is a court test right now that several of us are involved in which says that the \$1.44 rate is probably twice as high as the interstate gas price needs to be, to provide an ample return to the producers as the FPC's own staff found.

Of course, the more it is held back the tighter the supplies get and the more pressure there is for deregulation.

I would like to place in the record a couple of new evidences to add to the ones that this committee and Congressman Moss' subcommittee have gathered over the years. Naturally the answer here is not deregulation. The answer is a firm statement, a policy by the Government, the executive and legislative branch, that regulation is going to continue, that we can't afford deregulation, that we can't expect that tremendous jump in price just around the corner, and then that gas will come on the market because there will be no incentive to hold it off the market.

I think we have proof of that today in what Congressman Brown has told us. I think it is a startling disclosure. I hope that the record will remain clear and not revised until we can all read word for word what he said, but as I understand what he said, there are 2 trillion cubic feet, 2 billion Mcf, which I calculate 2 trillion cubic feet is ready to go on the market, just sitting there ready to go on the market

if we are allowed to enter into these emergency purchases of offshore gas and gas produced by affiliates of the pipelines.

Mr. BROWN. You did misunderstand. What I said was out of four companies there are 2 billion Mcf to 3 billion Mcf that are involved in affiliated pipelines, the sale of which into the interstate market under the provisions of this bill are eliminated by a section of this bill.

Now, those are currently being sold and are available. I did not suggest they were being withheld. I suggested that this bill, the way it has been drafted by the administration, denied the opportunity for those to be bought to the interstate market.

Mr. FLUG. The answer to the question you asked before about why that provision is in there is very simple. Offshore gas is supposed to be interstate gas and that gas, if it is available now, should be put on the interstate market. To say that there are people who are not putting interstate gas on the interstate market and who if this—

Mr. BROWN. That is not what I said.

Mr. FLUG. There is no other explanation because otherwise no gas would flow. Let me get back to that as I will with a suggested amendment that will clarify this.

Mr. BROWN. I have a suggested amendment and that is that we take it out.

Mr. FLUG. There would be no reason to take it out unless there is offshore gas waiting to be put on the market as many of us believe to be the case.

Mr. BROWN. I want to take all the offshore gas and make that available.

Mr. FLUG. The question then becomes if deregulation is not a remedy and if these other factors have different remedies not having much to do with either the natural gas bill or Congress, for that matter, but having to do with the weather and capacity and so on, then do we need an emergency bill? Some experts, and to some extent I think Mr. Wheatley is one of them, say that the FPC already has ample powers to meet the goals of this bill in terms of allocation and emergency sales. But if we feel the FPC and the pipelines need more protection and we want to write those into law the procedure should be written carefully and rationally. We should not create new loopholes and adopt discontinuities or freeze in law loopholes and discontinuities that have crept into and sometimes overwhelmed the existing administrative process.

I suggest several amendments some of which have been discussed. First of all, as Mr. Wheatley and, I believe, Mr. White, suggested or Mr. White suggested as a desirable thing but perhaps not pushing it at this time, we are planning to take gas away from the customers of the intrastate pipelines who have gas.

If we are in that much of an emergency we should not limit it to the interstate areas. Mandatory allocation should apply to intrastate gas and if it did then you would not really need the emergency purchase provision. This can be done with just a few word changes in the bill which I suggest in my statement.

Next on the emergency purchase section there seems to be a great omission this year in the emergency bills, in both the House and Senate emergency bills last year, which is a need for finding that the pipeline that is going to make this emergency purchase is in distress.

Now, the President's "terms and conditions power" is broad and the words "emergency supplies" are in there and I suppose the report could make clear that there has to be a need for that purchase, there is an excruciating need for that purchase, so that the pipeline seeking to make that sale can demonstrate it is unable to provide gas to high priority customers with no alternative fuel, whose needs need to be met.

If this is an emergency bill that we are talking about, then we are talking about the next 60 days. There is no basis in fact to assume that once the heating peak is passed that replenishment of reserves cannot be accomplished in the normal channels and especially if in the meanwhile the agencies are pursuing aggressively the information that this and other subcommittees have developed on withholding and diversion of interstate gas or, if Congress chooses, as this House did last year, to impose controls on intrastate sales and close the gap between inter- and intrastate prices.

I agree that there should be price limits. It is enough of a concession to the intrastate producer to allow him to have this additional market for his gas without subjecting himself permanently to Federal jurisdiction. We should not allow him to exploit the interstate consumers as he is now permitted to exploit the intrastate consumers. That may not last for long because the people of Texas are getting damned mad, too. They are tired of paying those intrastate prices that are also totally unjustified. There is no need to export them to Mr. Brown's State or anyone else's State.

Finally, I think that we have to be careful that we are not giving to the very people who have helped cause the shortage the benefits of the shortage and in particular I believe that we ought to have an amendment that says that anybody who is in default, any producer who is in default in the provision of interstate supplies, should not be able to sell under these emergency sales.

What they should be doing is meeting their interstate contract obligations. It is a cruel hoax on the curtailed pipelines and their consumers if we enable those same producers who are welching on interstate supply contracts at low price levels set in past years now to demand the high current prices for the same gas which could and should have gone to meet the old contracts at the old prices.

Finally, there is a huge amount of gas, as this committee found in its investigation last year. Your estimate was 1 trillion cubic feet a year that is being diverted from interstate supplies through the so-called reserve gas practices of many producers where they take gas out of the offshore production and use it in their own refineries and petrochemical plants instead of the higher priced intrastate gas which they would otherwise be using and thus are able to sell that higher price intrastate gas and basically transmute the interstate gas into intrastate gas. This was created by the FPC. The FPC long since should have taken the warnings of this staff and eliminated this massive leak but now Congress should not only kill it but certainly not encourage it by allowing people to benefit from it, and I think a simple amendment could make sure that the people who have been diverting that reserve gas are not allowed to benefit by then putting it back on the interstate market at higher prices.

As far as the whole emergency provisions goes, as the pipelines themselves have said, it will do no good whatsoever unless we have

been grievously misled by the facts of the current situation by the pipelines and by the producers.

The pipelines tell us they can't find emergency gas to buy under the existing FPC purchase provisions and the producers tell us there is no gas being hidden from view waiting for the right price and timing.

If this bill passes and we suddenly see significant volumes of gas moving under this emergency purchase provision we will know that both the pipelines and the producers weren't giving us the whole story. If little or no gas moves under this clause, as we have been told will be the fact, we have strong reason to believe that the only reason the industry wants this bill considered is in hopes of adding deregulation to it.

Mr. Chairman, some kinds of natural gas have a strong odor to them. But nothing can match the smell of boundless greed and gross fraud that surrounds the natural gas supply situation. Our crisis has come not because we have had regulation, but because we have had regulators who did not believe in regulation. If we had an FPC, and an FEA, and a Department of Interior that truly protected the public instead of pandering to producers, we would not have a gas crisis, just the usual frictional problems that any weather extreme brings.

We are getting new people in all those agencies. Let's give them a chance to get the real facts, and to act accordingly in the national interest, before we surrender to those who argue that what is good for the oil and gas industry is good for America. Look at your gas bills. Then look at the profit reports for the major oil and gas producers. Somehow the worse off we are, the better off they are. If we leave energy policy to them, we may really get left out in the cold.

Thank you.

[Mr. Flug's prepared statement follows:]

STATEMENT OF JAMES F. FLUG, DIRECTOR AND COUNSEL,
ENERGY ACTION COMMITTEE

I am James F. Flug, Director and Counsel of the Energy Action Committee, Washington, D.C. Most of you are familiar with our group, but for those who are not, I offer the latest outside description, from the Texas Observer, which called us "a Washington research organization that monitors government and industry behavior in energy matters." We appreciate your invitation to comment on the "Emergency Natural Gas Act of 1977."

I think it is vital to place this legislation in the context of recent history. The fact is that each time during the past two years when similar legislation was being processed through Congress, the oil and gas industry did not want to see an emergency bill pass. They merely wanted to use it as a springboard for their desperate effort to eliminate federal supervision of natural gas prices. Of course, it is this supervision—when properly conducted—which assures that the entire nation will share in the benefits of the vast disparity between the low cost of producing natural gas and the high value of users of this vital national resource. And it is this supervision which protects us from having our own domestic energy resources priced at super-high levels by the international oil cartel and its partners, the giant oil and gas companies.

In the Senate in 1975, after an unprecedented campaign of propaganda and arm twisting, the industry rounded up enough votes to turn the emergency bill into a price deregulation bill. (I should point out that 9 of the 50 Senators who then voted for deregulation are no longer in the Senate). And in the House, just a year ago next week, the industry's front men also tried to turn the emergency bill into a deregulation bill. But they were shocked when the House not only rejected their simplistic and irrational pleas, but turned the tables on them and voted to regulate intrastate gas prices, a long overdue step that would eliminate the vast and inefficient diversion of gas from national markets to local markets.

Let there be no mistake: "deregulation" is now nothing more than a euphemism for energy piracy:

"Deregulation" would allow those who have hidden, withheld, and diverted natural gas from interstate markets to reap huge windfall profits in selling that very gas;

"Deregulation" would let those who have helped make us vulnerable to the cold profiteer more, the colder it gets;

"Deregulation" would replace public agency prices ceilings with price floors set by OPEC and the Seven Sisters;

"Deregulation" would allow a few to gain benefits while the many bear the burdens of accelerated inflation and unemployment.

Yet nevertheless, this very day, we see reports that the oil and gas industry's puppets, having stopped emergency bills in 1975 and 1976, by trying to convert them to deregulation vehicles, are beating the deregulation drums again. It's obvious that they have no interest in dealing with the emergency—the worse the emergency, the better for them. The more people who are cold, and out of work, and out of school, the easier it is to stampede the nation and the Congress into a deregulation frenzy, even though as the industry, and every member of this Committee well knows, deregulation is about as good a cure for the current crisis as death is for hangnails.

Indeed there *is* a crisis, and it should be dealt with—but neither panic nor panaceas will solve it. And if we lose our cool because we are cold, we will spend the next hundred years paying the price.

The key to dealing with the legislation before you is to remember what the so-called "natural gas shortage" consists of. It has at least five parts:

1. *The Capacity Crunch.*—Gas pipelines and distribution facilities just are not designed to handle a winter like the one-in-a-hundred—or maybe one-in-a-thousand—winter we are having. When it's this cold this long, we just use more gas than the system can physically take care of. It's the same as the phone system on Christmas Day, or the electric system on a 100-degree day in August—we're getting a "busy circuit" or a "brownout" on the gas lines. This is a *major* part of our current problem and the *only* solution to this part is *everybody* using less gas so the limited capacity can serve more people.

2. *The Transportation Crunch.*—Because the gas system has limited capacity, it is designed with the expectation that many users will shift to other fuels when gas deliveries are interrupted. Many larger users pay lower rates in ordinary times because they have such "interruptible" service. But with the rivers and bays frozen, and the oil delivery system also strained because of the extraordinary weather, oil and other available substitute fuels are hard to move from one place to another. The answer to this problem, under emergency conditions, is to make sure that the available transportation facilities are used first to meet emergency needs.

3. *Mismanagement and Inefficiency.*—Why do some pipelines have enough gas to meet almost all their firm needs despite the weather, while others are almost ready to cut off residential customers? Why was the part of Ohio served by one pipeline able to keep going much longer than the part of Ohio served by another pipeline? Why was the second pipeline selling off huge amounts of what is called excess reserves of gas, when others were preparing for a cold winter? Why was a local distribution company customer (Washington Gas Light Company) of that same pipeline placing an ad in November pushing gas dryers on the basis of the pipeline's assurances that there would be no supply problems, after a very cold October and in the face of a U.S. Weather forecast for a long, cold winter? The answer is that some pipeline companies are well-managed and efficient, and get ample supplies under solid contracts which they are ready to enforce if necessary. And they give their distribution company customers enough warning of problems so that they can interrupt interruptibles early and discourage stunts like selling gas dryers in November. And the management problem applies to users too. Take CertainTeed, a company headquartered in Valley Forge, Pa., which has treated us to two large ads in recent days citing the closing of fiberglass insulation plants as an argument for deregulation.¹ In fact the reason the CertainTeed Plants closed down, was that the management of that company did not make adequate preparations to deal with gas interruptions—even where its facilities had interruptible gas contracts. And ultimately the real problem was not fuel, since the company had enough propane available in Kansas to run its plants in such

¹ It is interesting to note that the headline in the first ad, "The Nation's fiberglass insulation plants are being closed to save money," was changed in the second ad to read "The Nation's fiberglass insulation plants are being closed to save energy."

places as Georgia and New Jersey and Pennsylvania. The problem was failure to have standby transportation arrangements; and the company, only after closing down its plants, went out to buy tank trucks to ship the one load a day of fuel necessary to run one of the plants. So this part of the shortage is really a skill shortage, not really a gas shortage.

4. *The Intrastate Dain.*—If you invest \$100 in a gas well in Texas and can make back \$140 a year if you sell the gas in Ohio and \$250 a year if you sell it in Texas, you will sell it in Texas. That's the situation now because the FPC has refused to assert control over intrastate prices, and Congress—until now—has failed to mandate that control. Thus, whereas 10 years ago over twice as much new gas supply was placed on the interstate market as was placed on the intrastate market, in 1975 nearly seven times as much gas was added to the intrastate market as was added to the national market. Not only is this situation irrational and unfair, it is also counter-productive, because it results in a wasteful misuse of natural gas as boiler fuel in places where ample oil is available. The obvious remedy here is immediate price controls on intrastate gas, a step which the House voted to take last February, and should move quickly to initiate again.

5. *The Chutzpah Factor.*—Withholding in support and anticipation of deregulation. There is a Yiddish word, chutzpah, which is usually described by the case of the boy who killed his parents and then begged for mercy from the court because he was an orphan. The gas producers have provided us with a new example: they have purposefully refused to put gas on the market, and now they are begging for mercy in the form of higher prices because there is a gas shortage. The fact is that, at least since the start of the Republican Administration in 1969, the gas industry has hoped for and expected deregulation of interstate gas prices. Thus, each year since then they thought they were faced with a choice of selling gas for 26 cents or 52 cents or some other controlled price one year, or \$2 or \$4, or who knows what even higher price the next year. Without any venality or bad faith (except on federal lands and other places where they had an obligation to produce), the simple arithmetic told them it was better to hold gas in the ground as long as they thought deregulation was just around the corner. It was not a question of inadequate profit or incentive—they could make ample profit at the controlled price and that should have been enough incentive to produce. But they could make even more spectacular profits at an uncontrolled price, and there was just more incentive to hold gas in the ground to sell at next year's hoped-for price than to sell at this year's price. Besides, the more held back, the tighter, supplies would be, and the more pressure for deregulation. This subcommittee and Congressman Moss's Subcommittee have amply documented this phenomenon, but I add three recent additional examples: a Wall Street Journal article describing a belated disclosure by Mobil of offshore gas it found in 1975, and excerpts from two stock brokerage house reports showing how the reserve figures of two leading offshore oil exploration companies, Pennzoil Offshore, and Tenneco Offshore, are revealed as understated by at least a factor of from 2 to 15 times, based on the companies' own orders for production platforms to lift oil and gas on a limited number of tracts.

Of course, the answer to this problem is not deregulation—because even under deregulation there will be incentives to withhold as long as next year's price is expected to be sufficiently higher. The answer is a firm national decision to continue a comprehensive regulatory system, with some minor exceptions if demonstrably required to find truly new, truly high-cost gas, and establishment of production schedules and leasing terms for oil and gas on public lands that meet the energy needs and economic rights of the public, not just the political, tactical, and economic preferences of the oil and gas industry.

If those are the causes of the current crisis, and the respective remedies, then do we really need an emergency bill? Some experts say we don't, that the FPC already has the power to meet the goals of the bill—the allocation of gas where required for high-priority use, and the allowance of isolated interstate sales of excess intrastate gas without subjecting the sellers permanently to federal jurisdiction. Apparently, however, the FPC and some pipelines would like the protection of having specific statutory authority for these procedures.

But if we are going to write these procedures into law, they should be written carefully and rationally. We should not create new loopholes and discontinuities or freeze into law unjustified loopholes and discontinuities that have crept into and sometimes overwhelmed the administrative process. I, therefore, strongly urge that serious consideration be given to the following suggestions for improving H.R. 2500, a bill which, for understandable reasons, had to be constructed hastily.

Sections 1-5: Mandatory Allocation for Priority Uses.—What this part of the bill really does is permit gas to be taken from the best managed pipelines, the ones which have secured ample supplies through solid contracts and have enforced those contracts and used those supplies efficiently, for shipment to the worst-managed pipelines, the ones which have poorly planned their supply procurement and/or poorly utilized the available supplies. That's really not fair to the well-supplied pipelines and their customers, but we are talking here *only* of situations where residential heating and other vital human needs are at stake. Under these circumstances we must be willing to ask some to bear unfairness so that others will not face tragedy.

Yet, if that is the nature of the balance, why is the mandatory allocation provision limited to interstate pipelines? Why should we close down factories in Maryland to heat homes in Ohio, while intrastate gas is being burned freely in Texas for night hours at shopping centers or at amusement parks or under boilers that could be burning oil. In short, if we are going to spread the burden of preventing human tragedy it should be spread by law to all states, not just to those which are already disadvantaged because they have no gas of their own to use. In fact, if the mandatory allocation provision included intrastate gas, no provision for emergency purchases would be necessary, and the many problems which that provision raises would be moot.

This change can easily be made by deleting the word "interstate" the first three times it appears in Sec. 4(a)(1)(A) of the bill, and deleting the phrase "served by an interstate pipeline" in that subsection; deleting Sec. 4(a)(1)(B) in its entirety; renumbering Sec. 4(a)(1)(C) as 4(a)(1)(B); and deleting the word "interstate" wherever else it appears in Sec. 4, except 4(d).

Section 6:

Emergency Purchases.—If for some reason Sec. 6 is not mooted by the extension of mandatory allocations to intrastate gas, then Sec. 6 needs several technical improvements.

Finding of Distress.—Although this is presumably implicit in the President's "terms and conditions" power, and suggested in the words "emergency supplies," the bill, unlike the Senate and House emergency bills in the last Congress, omits an explicit requirement that a pipeline seeking to make emergency sales demonstrate that it is unable to provide gas to high-priority customers with no alternative fuel whose needs must be met to avert serious public harm. This requirement could be handled with report language, but a statutory provision similar to those of the previous bills would be more suitable.

Duration of Emergency.—Because so much of the present shortage is due to temporary capacity problems which will be alleviated immediately as soon as the cold weather abates, there appears to be no reason to allow any particular sale to extend for more than 60 days, or beyond April 1, 1977. There is no basis in fact for assuming now that once the heating peak is passed, replenishment of reserves cannot be accomplished through normal interstate purchases, especially if in the meanwhile FEA, FPC, and Interior pursue aggressively the information this and other subcommittees have developed as to withholding and diversion of interstate gas, or if Congress chooses to impose controls on intrastate sales and close the gap between inter- and intrastate prices.

Price Limits.—Although the bill confirms the existing FPC practice of imposing price conditions on interstate sales of purportedly intrastate gas, the standard, "fair and equitable," is unnecessarily general and broad. In fact, the existing FPC interstate price of \$1.44 is by definition fair and equitable, and there is a strong case—now in court—for the position that \$1.44 is at least double what fairness and equity require. The fact that producers are gouging consumers in the intrastate market is no reason to write a law permitting them to profiteer on those in emergency conditions in other states. It should therefore be a sufficient concession to those producers willing to offer additional "intrastate" gas for interstate emergency sales, that the production involved will not thereby be subjected to permanent federal jurisdiction, and there is no need to allow any price higher than the FPC price.

This clarification can be accomplished by replacing the words in the second set of parentheses in Sec. 6(a) with the words "at a price not to exceed the then prevailing FPC price for interstate gas."

Disqualification of Defaulting Producers.—There is no reason why producers who have helped cause the supply problems by failing to meet their interstate contract obligations should be permitted to take advantage of this opportunity to place "intrastate" gas on the interstate market without subjecting its source to full federal jurisdiction. It would be a cruel joke on the curtailed pipelines and their

consumers to enable the same producers who are welching on interstate supply contracts at the lower price levels set in past years, now to demand the higher current prices for the same gas which could and should have gone to meet the old contracts at the old prices.

This necessary change can be implemented by inserting after the word "President," in Sec. 6(a)(1), the words "or a producer who has failed, or is affiliated with any person or entity who has failed, at any time during the past five years, to deliver amounts of natural gas contracted to be delivered to any interstate pipeline".

Restoration of Reserve Gas Diverted from Interstate Market.—Huge amounts of gas, estimated by this Committee at 1 trillion cubic feet per year are being diverted from interstate supplies through the "reserve gas" practices of many producers. Under this arrangement producers keep a certain percentage of what would otherwise be interstate production for use in their own refineries and petrochemical plants. The effect of this is to allow them to sell in intrastate markets at intrastate prices the local gas they would otherwise have used in these refineries and plants. In short, interstate gas is transmuted into intrastate gas, with a resultant sharp reduction of interstate supplies and a massive windfall profit on the intrastate sales. Although the FPC, which created this monster, has failed to kill it, it would be clearly counter productive for Congress to encourage it by now, in effect, permitting that same diverted gas to be put back on the interstate market while maintaining the fiction that it is intrastate gas. To avoid this, any producer which has been engaged in the diversion of "reserve gas" from interstate supplies should be required at least to cease such diversions, and probably to replace its past diversions, before it is permitted to make Sec. 6 sales, especially if these sales are to be permitted at prices above the interstate price. Again it is likely that the President would include this requirement under his terms and conditions power, or that he would interpret Sec. 6(a)(1)(A) or (B) to cover the situation, since most or all of such gas is in effect the equivalent of gas produced from the Outer Continental Shelf or certificated under the Natural Gas Act. But again the preferable route would be to mandate such a condition, by adding the appropriate language as a new Sec. 6(a)(1)(C).

In thinking about the Emergency Purchase provision let us remember that it will do no good whatsoever unless we have been grievously misled by the pipelines and the producers. The pipelines tell us they can't find emergency gas to buy under the existing FPC emergency purchase provisions. The producers tell us there's no gas being hidden from view waiting for the right price and timing. If this bill passes and we suddenly see significant volumes of gas moving under Sec. 6, we will know that both the pipelines and the producers were not telling us the truth. If little or no gas moves under this clause, we will know that the only reason the industry wanted this bill considered was in hopes of adding deregulation to it.

Some kinds of natural gas have a strong odor to them. But nothing can match the smell of boundless greed and gross fraud that surrounds the natural gas supply situation. Our crisis has come not because we have had regulation, but because we have had regulators who did not believe in regulation. If we had an FPC, and an FEA, and a Department of Interior that truly protected the public instead of pandering to producers, we would not have a gas crisis, just the usual frictional problems that any weather extreme brings. We are getting new people in all those agencies. Let's give them a chance to get the real facts, and to act accordingly in the national interest, before we surrender to those who argue that what's good for the oil and gas industry is good for America. Look at your gas bills. Then look at the profit reports for the major oil and gas producers. Somehow the worse off we are, the better off they are. If we leave energy policy to them, we may really get left out in the cold.

Mr. DINGELL. Thank you.

We will now hear from Mary Ann Aiello.

STATEMENT OF MARY ANN AIELLO, ROCKFORD, ILL.

Ms. AIELLO. My name is Mary Ann Aiello. I'm here from Rockford, Ill. with my friend Peggy Clark. We have come to Washington with over 10,000 signatures to testify before your committee on the problems that we are facing in Rockford.

We are facing a serious problem with the increased gas prices recently charged to the Northern Illinois customers. Since November 1, 1974, the price of natural gas has risen 66 percent in our area. As of December 1, 1976, we have had a rate increase of 20 percent. Coupled with the extreme weather conditions our bills have doubled and even tripled.

While petitioning for these signatures we spoke to many hardship cases. I received a letter from an elderly woman who has received a gas bill for a 2-months' period of \$282.33. Her total monthly income from Social Security is only \$212 per month. Another case was a woman who had her home insulated through Northern Illinois Gas. Her average bill last winter was \$43. This year even with the added insulation her bill was \$148 for 2 months.

We have spoken to hundreds of consumers about cases such as these. We feel these increases are too extreme. Yesterday we spoke to Mr. Lyle Reed, Director of Oil and Gas at the Federal Energy Administration. He commented if we want the natural gas we need we must pay the price and if we cannot pay the added increase we must change our lifestyles.

Our wages cannot compete with these excessive price increases from the producers of natural gas. What good is having the gas if the consumer cannot pay for it. We feel the producers are using this natural resource which is a necessity to drive up the prices way beyond the already high levels to rip off the consumer and make even more grossly outrageous prices.

President Carter has asked the American people to sacrifice their extra warmth and comfort by turning down the thermostat to 65 degrees to try to conserve our natural gas resources. The American people are willing to conserve but what we would like to know is what type of sacrifice the producers are making? We feel that any type of price increase is too much to bear during this inclement weather.

We have been asked to make sacrifices but does this mean that we, the consumers, must lose our homes because we cannot pay our gas bills? Should our elderly be forced into leaving their homes after many, many years of being hard working, productive, taxpaying citizens simply because they cannot pay the increases? If money means more than the health and welfare of our people then God help us.

Thank you.

Congressman Dingell, we would like to submit these petitions on behalf of the people of Rockford.

Mr. DINGELL. The petitions referred to will be received by the committee and will be held in the committee files.

We thank you.

The Chair will now recognize the members of the committee for questions. The Chair now recognizes Mr. Brown.

Mr. BROWN. Mr. Chairman, I have to observe that this is a consumer panel and we have been following for the most part in terms of the price situation recommendation made by members of this panel over the last few years.

Mr. White, when he was Chairman of the Federal Power Commission, participated in the first *South Louisiana* rate case in 1968 when we held back the area rate price to what it had been 8 years before; 1970, 2 years later, was our first curtailment year.

In 1970 production of this country peaked in the natural gas area and it has gone down ever since. In 1974, the Consumer Federation of America, which he now represents, sued the Federal Power Commission to prevent 180-day sales, along with some of my colleagues in the Congress whose names I will put in the record.

In 1976 the *Consumer Federation of America v. Federal Power Commission* is a case suing against the \$1.42 price of interstate new gas set by the Federal Power Commission on their cost-based program.

As a result, in the State of Ohio, according to the Ohio Manufacturers Association, we have as of yesterday 65,000 people out of work due to energy shortages. I am told that if it goes on 2 more weeks we will have 200,000 people out of work, which will double our unemployment in Ohio.

Governor Shapp testified that we have industries going South or threatening to go South where gas is available at \$2 per thousand cubic feet. Of course, what that does is leave schools closed and other public institutions without enough gas to operate on. It leaves tax bases reduced for the members of the U.S. Conference of Mayors in those communities so that they have difficulty meeting their community responsibilities because they lack the tax base. We have consumers in my area who have the opportunity to have their gas bills go up.

Ms. Aiello, I think you ought to look into this. Maybe one of the causes of those price increases in gas bills is that they are using propane rather than natural gas at \$2, propane at \$4 a thousand cubic feet, because they don't get the natural gas through the lines.

So I would guess this is a very high moment for the panel because the potential exists that we are going to have the President of the United States decide who gets gas in this country rather than have the forces that interplay broadly throughout our system make any decisions on that.

I would guess that that conforms to what Mr. White suggested to us in his testimony about 16 months ago. He said:

My own basic prejudices go in a slightly different direction. I have long advocated a Federal Oil and Gas Corporation which will be the option and the alternative. Once that alternative option is in place there won't be any other options or alternatives.

I have some trouble with that both philosophically and in terms of what I think we are all about in this society, but I sure have trouble with it now because in my town there is not an industry turning a wheel. There is not a school operating. I think in our county we may have one school operating but the other schools are not operating. We face the prospect of economic catastrophe in my area given the results of the programs that we have been through.

Now, we have tried your system and we have a problem. What I would like to know is what do you recommend we do now? Because it is the sort of thing that I think my folks would like to have me vote against. So if you will kind of identify that, that will enable me to adopt my political posture because I don't like the results we have gotten to from where we have been in the past 15 or 20 years during your responsibility for deciding what the program ought to be.

Mr. WHITE. I think that is a question and I think I perhaps ought to take a crack at it. If I may say, Congressman, my mother would

be very pleased because she thought you were unfair to me on TV the other day, you did not give me a chance to answer.

Mr. BROWN. I didn't control the program. I wished we could have gotten 20 minutes or so more because we know what caused the problem.

Mr. WHITE. I did not say that that is what caused it. I said she thought you did it. Anyhow, we have that clear and I now get a chance to respond.

First, let us talk about 1968 in south Louisiana. You are absolutely correct, the Commission did find a 20-cent rate. Do you know that 85 percent of the producers by volume or 85 percent of the distributors by volume told the FPC what they thought the price ought to be?

Mr. BROWN. What was that at that time?

Mr. WHITE. 20.2 or 20.3.

Mr. BROWN. Can you tell me what the price of hamburger was then? Can you tell me what the price of Chevrolets was then or the price of labor?

Mr. WHITE. No, I can't.

Mr. BROWN. Did you think we should have kept the price on those things at that price and do you think that if we had that, we would have labor, hamburgers, and Chevrolets now?

Mr. WHITE. Are you trying not to understand? I said at the time the FPC fixed that price it was recommended to them by the producers and by the distributors. Don't you think that is significant? The question is: Do you think that is significant, Congressman, that 85 percent of the gas producers recommended the price that the FPC fixed within half a cent?

Mr. BROWN. I think it is significant that you rolled back the price to what it was 8 years previously and the result 2 years later was that we curtailed gas for the first time.

Mr. WHITE. Two years after the 1968 decision in 1970 and early 1971 a new group of Commissioners had before it a proposal from south Louisiana, 85 percent of the producers, 85 percent of the distributors, they said, "Gentlemen, that other crowd made a bad mistake. They set it at 20 cents. It ought to be at 26 cents." The FPC said "Fine, we accept." Guess what? They accepted that. They didn't say anything about the price of hamburger.

Mr. BROWN. They were enthusiastic about it I assume because that reduced the price for them.

Mr. WHITE. That would produce all the gas that was needed. I don't understand, Congressman. The only person I know who believes the story you relate about my having done that is my mother. She is so proud that her boy could have done this by himself. There were a lot of other factors and forces at work.

Let me talk about CFA versus FPC. Why didn't you say that the court of appeals found that the 180-day proposed extension of the emergency rule was tantamount to deregulation and therefore was invalid? Are you saying it is improper for an organization to use the judicial process? It seems to me you are suggesting that it is improper for an organization to use this Nation's court process?

Mr. BROWN. I am suggesting you have been wrong for 15 years and that is how we got into this problem.

Mr. WHITE. We have had a different administration. I have not been at the Federal Power Commission for 8 years.

Mr. BROWN. I have a good friend by the name of Mike DiSalle who used to be Governor of Ohio and who was the OPA Administrator. I think Mike proved that you were wrong.

Mr. WHITE. Somehow or other the relevance of that flew over me.

Mr. BROWN. He fixed prices and we had shortages. It is very simple. It happens all the time.

Mr. DINGELL. The Chair observes that oftentimes we have shortages before we fix prices.

Mr. WHITE. Has my time expired, too?

Mr. DINGELL. The Chair recognizes the gentleman from Ohio.

Mr. DEVINE. I yield back my time.

Mr. DINGELL. The gentleman from Texas, Mr. Eckhardt.

Mr. ECKHARDT. I have no questions.

Mr. DINGELL. The Chair wants to ask a question of Mr. Wheatley.

Mr. Wheatley, at page 2 of your rather carefully thought out statement I noted that you made certain comments with regard to the power of the Federal Power Commission to allocate gas between interstate pipelines. Can you document in greater detail the authority that you allege to exist?

Mr. WHEATLEY. I had put in a reference in my statement, Mr. Chairman, to a recent decision in the *East Tennessee Natural Gas Company* case on January 19, 1977, where the Commission expressly stated that it did have the authority to allocate gas between interstate pipelines in order to prevent an emergency. As far as I know, they do have that authority under the present statute.

Mr. DINGELL. Can you assure us that that power could be exercised by the Federal Power Commission without court test, challenged by other pipelines or pipelines from whom the gas is being transferred without challenging from, let us say, industrial consumers or other consumers who might be affected by the transfer of gas from their pipeline to other pipelines?

Mr. WHEATLEY. I think it is impossible to assure that any decision made by the Federal Power Commission is not going to be subject to challenge by one of the many parties involved in these large proceedings. I don't think anyone could give you that assurance. I would think, though, that this Commission decision and its authority are fairly well based, it appears to me, on the law. I don't think that is a complete answer. The real question to me is whether the Commission is going to exercise this authority in a positive, creative way in order to meet the present emergency situation.

Mr. DINGELL. It is, I guess, then fair to say that that power would not be inconceivably subject to court test and substantial delay.

Mr. WHEATLEY. I think you are correct.

Mr. DINGELL. Mr. White, you served with distinction on the Commission. Do you want to give us a comment as to the power of the Commission to allocate gas between interstate pipelines?

Mr. WHITE. I have not made a careful study of it but accepting what the FPC Commissioners say now, I think they do have the authority and certainly in times of emergency if there were not legislation of the type that H.R. 2500 is, I would think that they would simply have to exercise whatever is even marginal or questionable authority.

If there is to be legislation, and I believe there ought to be, let us make that clear, and avoid, if we can, the unnecessary litigation.

To put it another way, I have a hunch, Mr. Chairman, if I were a member of the Commission and had a vote I would find the authority to allocate the gas among the pipelines.

Mr. DINGELL. Mr. Flug, do you have any comment on that point?

Mr. FLUG. My comment is that that also answers one of Mr. Brown's questions. I would venture to guess, and Mr. White may correct me, that had Mr. White remained on the Commission in the past 8 years the Commission would have exercised other authority.

There is now a proceeding, to which I believe Mr. Wheatley is a party, setting forth the theory under which the FPC now has authority to control intrastate prices. I am not sure, I believe that Mr. White, had he been on the Commission, if that had not been the fact when he looked at the trend in dedications to the intrastate market, would either have tried to exercise that power or would have asked to put that market under control.

I think that is the answer to Mr. Brown's question. If his people want to know what he should do right now, had he supported the Smith amendment last year with the vigor with which he opposed it then, we would now have intrastate price controls and we would reverse this trend of the drainage of gas from the interstate market into the intrastate market, and you are talking about trillions of feet.

Mr. BROWN. Can you tell me why it has gone down when we have had controls? We have had controls only on the interstate market, haven't we?

Mr. FLUG. Yes.

Mr. BROWN. We have not had them on the intrastate market.

Mr. FLUG. That is correct.

Mr. BROWN. How much increase have we had in the interstate market?

Mr. FLUG. As long as you don't have controls——

Mr. BROWN. Can you answer my question?

Mr. FLUG. In the interstate market the interstate controls can't work and you know that, Congressman Brown.

Mr. BROWN. The interstate market has gone down in terms of supply and the intrastate market has gone up in terms of supply.

Mr. FLUG. That is right, because of this disparity, because of the lack of regulation.

Mr. BROWN. So we control everything and it will all go up?

Mr. DINGELL. With all respect to my good friend from Ohio, he is cheating on my time and I have not yielded to him.

Mr. BROWN. The question was addressed to me.

Mr. FLUG. I was answering your question on his time.

Mr. DINGELL. In view of the colloquy between my friend Mr. Brown and Mr. White the following data from the Federal Power Commission's files, I think, might be of use. Before we get around to that, though, Mr. White, when were you a member of the Commission?

Mr. WHITE. From March 1966 through July 1969.

Mr. DINGELL. To give us a comparison of intrastate jurisdictional new contract weighted average prices, in 1966 the intrastate price in cents per thousand cubic feet was 16.8. The jurisdictional price per

thousand cubic feet was 18.5 cents. In 1967 the intrastate was 17.3, jurisdictional price was 19.1. In 1968 it was 17.5 for intrastate and jurisdictional price was 19.2. In 1969 it was 18 and 18.8. Do you have any comments on those figures?

Mr. WHITE. They certainly sound about right. Don't forget, I think we have to keep in perspective the fact that the demand for natural gas—the pipeline network has now been completed across the country and we are a growing economy—has grown and the companies who make the decision as to whether to invest in searching for natural gas are basically the same companies that make the decisions whether to invest in the search for oil. You can hardly blame them for wanting to have a product with an appreciation.

Mr. DINGELL. Isn't the point that during the time you were on the Commission, during the years referred to, that the Commission was acting in a generally responsible fashion and was not limiting prices for natural gas?

Mr. WHITE. That is correct. When the first area rate decision came out, Permian Basin, that was to be fixed for the first time, the products in the basin increased the first 2 or 3 years thereafter.

I don't think that there are automatic connections between or cause and effect between the fact that it is now 1977 and 45 percent of the gas goes into the intrastate market rather than maybe 25, to 30 percent. Factors do take place that are outside the scope of even the potent FPC.

Mr. DINGELL. The Chair thanks you.

The Chair thanks the panel for their kindness to the committee. We excuse them and we now call as our next witness Dr. Donald Gilman, who is Chief of the Long Range Prediction Group, National Weather Service, National Oceanic and Atmospheric Administration.

Dr. Gilman, we are pleased to welcome you and whoever you have with you as your associates and assistants and you may comment as you wish.

If you will give us your full name for the purpose of the record, we will recognize you, but first do you have any assistants or associates you would like to have at the witness table with you?

STATEMENT OF DONALD GILMAN, PH. D., CHIEF, LONG RANGE PREDICTION GROUP, NATIONAL WEATHER SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. GILMAN. No, sir, I am here by myself.

Mr. DINGELL. Very good. You may continue.

Will you identify yourself fully for the purpose of the record and then you may consider yourself recognized.

Mr. GILMAN. My name is Donald Gilman. I am Chief of the Long Range Prediction Group of the National Weather Service.

It is my understanding from the staff that the committee would like a statement of our current long-range outlook for the month of February which was just completed this noontime. There is a short formal statement of the outlook which I have submitted to the staff and I have copies.

[The document referred to follows:]

30-DAY OUTLOOK FOR FEBRUARY 1977

NATIONAL WEATHER SERVICE, WASHINGTON, D.C.

The National Weather Service's 30-day outlook for February is for temperatures to average below seasonal normals east of the Continental Divide except for near normal in western portions of the northern Great Plains. Below normal averages are also indicated for much of the northern Intermountain Region. In unspecified areas near normal temperatures are in prospect.

Precipitation is expected to exceed the median amount over most of the Southwest and South and also over the northern Great Plains. Elsewhere less than the median value is indicated.

ROBERT R. DICKSON,
*Long Range Prediction Group,
National Meteorological Center.*

Mr. GILMAN. Our forecast calls for colder than normal temperatures east of the Rockies in all areas except Montana and parts of the Dakotas; near normal or below normal temperatures in scattered areas west of the Rockies.

I would like to caution the committee that all long-range forecasts are very risky. This one is no exception. We are wrong about two times out of five, right about three times out of five. So the odds to put on this kind of forecast for another cold month are three to two east of the Rockies.

Mr. DINGELL. Can you give us an appreciation in which parts of the country the cold weather will be worst and can you tell us how much colder February will be than normal and will it be as cold as January?

Mr. GILMAN. It takes in most stations two to three degrees below normal in order to qualify for the category we call below normal. The forecast does imply that we think it will be at least two to three degrees below normal in that large area east of the Rockies. However, the state of the art does not allow us to attempt to forecast really extreme conditions such as we have been experiencing in January.

Mr. DINGELL. Very good.

The Chair recognizes the gentleman from Ohio, Mr. Brown.

Mr. BROWN. When did you predict that this would be up to this point the coldest weather in recorded history?

When was that prediction made?

Mr. GILMAN. I can't claim, Mr. Brown, that we predicted anything that spectacular. We did submit to this committee on November 9 a letter giving our preliminary outlook for the winter which called for colder than normal winter in most areas east of the Rockies, not, however, in the Great Lakes area.

Mr. BROWN. That was November 9?

Mr. GILMAN. November 9.

Mr. BROWN. The degree-day difference, that is, lower temperatures than normal, started October 15, as I recall. Is that correct?

Mr. GILMAN. No; I believe the degree days started to go above normal about as quickly as we started publishing them in the middle of September. The kind of pattern that we have had giving us cold weather has been established since mid-September and has varied very little since then.

Mr. BROWN. Your prediction that it is going to be lower in February than usual is the first thing that has given me some hope because I haven't had a lot of confidence in your ability to predict, that is, the Government's ability to predict the weather in the past.

One of the problems that we have gotten into, I gather, is that over the last 3 years there have generally been predictions that we would have a relatively normal cold winter. For the previous 3 years it has been much warmer than normal. Is that correct?

Mr. GILMAN. There may have been some predictions of that kind. Our own predictions called for warmer winters both last year and the year before.

Mr. BROWN. Did that relate then to figures on gas shortages or anything like that? Were your predictions used as bases of the FEA predictions of our shortfalls on gas or for corporate predictions of shortfalls on gas?

Mr. GILMAN. I guess I don't really have any way of answering that question in a satisfactory manner because we don't always know who uses our predictions or for what purpose.

Mr. BROWN. Let me ask the question more directly. What did you predict for this winter back, say, in the early fall or at the beginning of the fall, September 21 or 22, whenever the equinox is?

Mr. GILMAN. Our first preliminary statement about the winter was the one made for this subcommittee on November 9. We had not made any statement before that.

Mr. BROWN. What did that say?

Mr. GILMAN. That said a colder-than-normal winter.

Mr. BROWN. How much colder than normal? Is that all, just colder than normal?

Mr. GILMAN. Just colder than normal.

Mr. BROWN. The choice for February is normal, colder than normal, or warmer than normal?

Mr. GILMAN. Yes.

Mr. BROWN. I am trying to get two things. One is the nature of the predictions or how specific that prediction is. I gather that our choice is normal, colder than normal or warmer than normal; is that right?

Mr. GILMAN. That is right. We make the prediction in three classes. The below-normal class has a natural probability of 30 percent of occurring. The above-normal class has a natural probability of 30 percent of occurring. The near-normal class has a natural probability of 40 percent. Together they take up the whole spectrum.

Mr. BROWN. I think I understand that. The other question is how much colder than normal?

Mr. GILMAN. The numerical thresholds of the below-normal category vary from one station to another around the country.

Mr. BROWN. I understand that the below normal is one of the three choices we have and that is about 30 percent of 100 percent of the choices. My question again is, how much colder than normal?

Mr. GILMAN. How much colder than the threshold of below normal?

Mr. BROWN. No, how much colder than normal. Normal is a figure that works out on the average?

Mr. GILMAN. That is right.

Mr. BROWN. So we know what normal is?

Mr. GILMAN. That is correct.

Mr. BROWN. How much colder than normal should we expect February or March to be.

Mr. GILMAN. We think that it is going to be more than 2 or 3 degrees because that is the threshold for the cold category.

Mr. BROWN. What has the winter been so far?

Mr. GILMAN. It has been a good deal more extreme than that.

Mr. BROWN. How much?

Mr. GILMAN. The winter so far in the Great Lakes area has been running around 12 degrees below normal. In other areas further south, 10, 8, 6 degrees below normal. Those are rather large numbers everywhere.

Mr. BROWN. Your prediction for this fall for the Great Lakes area is what?

Mr. GILMAN. The winter prediction there was indeterminate. We had conflicting evidence and we could not call it.

Mr. BROWN. Thank you, sir.

Mr. DINGELL. Mr. Divine.

Mr. DIVINE. No questions.

Mr. DINGELL. Mr. Eckhardt.

Mr. ECKHARDT. Mr. Chairman, I was tempted to ask this witness if his Agency was not primarily responsible for the weather, and why did they let this happen. But I think I shall refrain.

Mr. DINGELL. Mr. Marks.

Mr. MARKS. No questions.

Mr. DINGELL. Could you tell us whether this portends a late spring in the gas-producing States or in any other parts of the country?

Mr. GILMAN. Since the forecast only goes through the end of February, I don't think it really has very much relevance for the spring. There is usually not much carryover of winter weather patterns into the spring.

Mr. DINGELL. Could you give us some comments as to California and the Far West, what the weather situation will be there?

Mr. GILMAN. The forecast for the Far West implies, I believe, mainly near-normal conditions in temperature. It also implies continued dry weather in the Pacific Northwest, which is already very deficient in snowpack.

Mr. DINGELL. Can you give us some appreciation on a related matter and that is the hydroelectric potential capability in the Pacific Northwest and western United States?

Mr. GILMAN. Mr. Chairman, I am not sure I understand the question.

Mr. DINGELL. Obviously weather and water dictate the level of production of electricity in the hydroelectric generating facilities in the West and Northwest. Can you give us some appreciation of what those will be, please?

Mr. GILMAN. I have seen figures published that the snowpack in the Pacific Northwest is on the order of half of what it ought to be.

Mr. DINGELL. Your comment here says as follows:

Precipitation is expected to exceed the medium amount over most of the Southwest and South and also over the northern Great Plains. Elsewhere less than the median value is indicated.

Mr. GILMAN. Yes.

Mr. DINGELL. That plus your comment plus the snowpack indicate a deficient level for water for hydroelectric power in the Northwest?

Mr. GILMAN. Yes; it does.

Mr. DINGELL. Is that of such magnitude that you would want to comment on it or is that a general assumption?

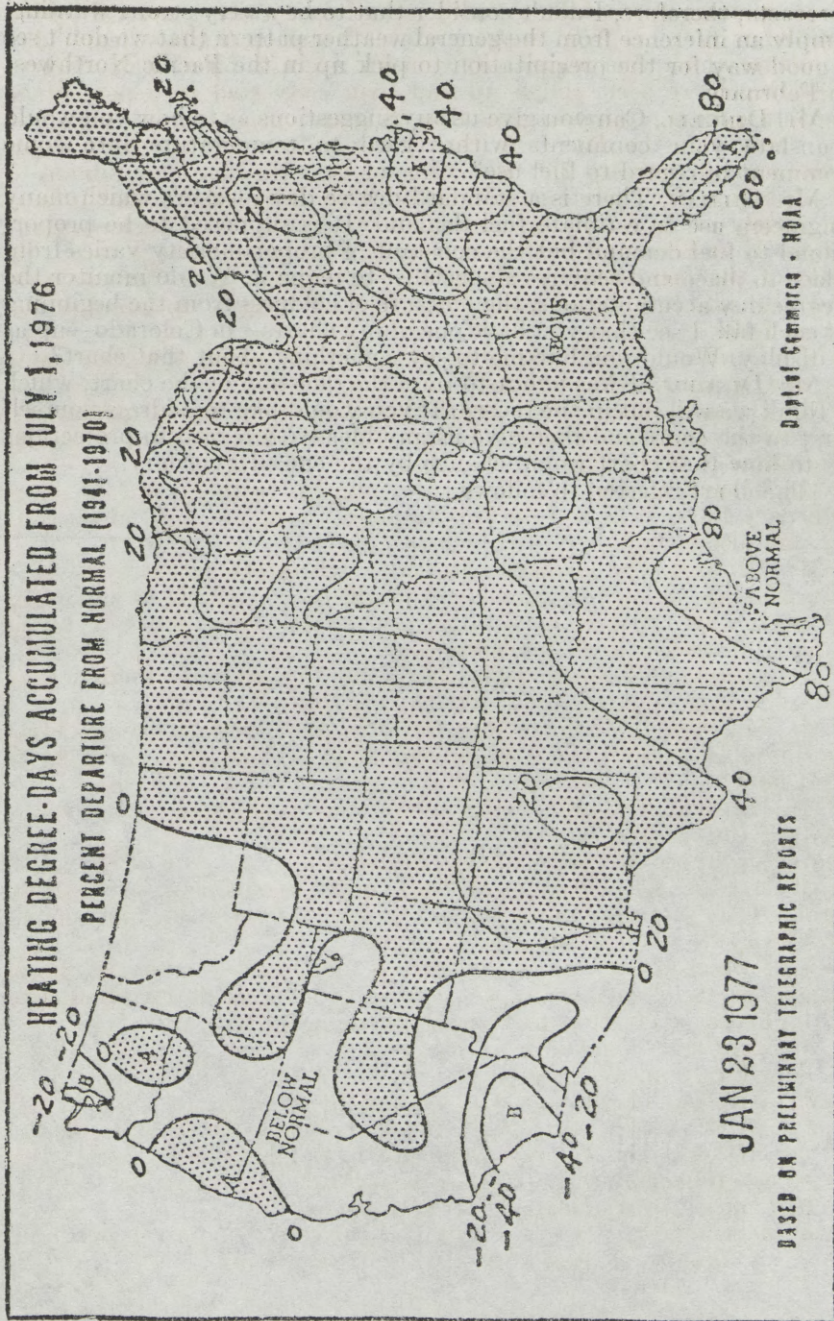
Mr. GILMAN. Precipitation forecasts are riskier than temperature forecasts; therefore, I don't consider that to be a very strong warning, simply an inference from the general weather pattern that we don't see a good way for the precipitation to pick up in the Pacific Northwest in February.

Mr. DINGELL. Can you give us any suggestions as to how you would translate your comments with regard to temperature into some comment in regard to fuel use?

Mr. GILMAN. There is a standard degree day measure which many engineers use to estimate fuel demand. It is supposed to be proportional to fuel demand but the constant of proportionality varies from place to place and requires a specialist to name it. We do monitor the degree day accumulations, the measure of coldness from the beginning of each fall. I see that you have one of my charts—in Colorado—up as a display. Would you like me to say something about that chart?

Mr. DINGELL. I was about to raise the question of the chart, which I think we will put in the record. If you would like to address yourself first to the chart and then give us any idea with regard to projections as to how that chart would change by the end of February.

[The chart referred to follows:]



Mr. GILMAN. The chart compares degree days accumulated from the beginning of the fall, actually from July 1, with a normal period defined as 1941 to 1970, 30 years. At each station the raw degree day numbers which are calculated from an average base of 65 degrees each day have been added up and then converted to a percentage departure from normal for this time of year.

I cannot see the date from here, but the date on that chart, I am quite sure, is January 23—which means that the chart is updated to last Sunday. We update each Sunday. The chart tells us that it is so far largely in the South and in the Midwest that the degree accumulations have been most different from normal in percentage terms, in spite of the fact that the absolute temperatures have been coldest and the absolute departures from normal largest up around the Great Lakes.

Mr. DINGELL. Could you give us any appreciation how that compares with your earlier forecast?

Mr. GILMAN. The pattern shown there has a very strong qualitative resemblance to the forecast pattern that we described to the subcommittee in November.

Mr. DINGELL. Do you want to comment with regard to your February forecast as to how this comports with the kind of pattern you are discussing?

Mr. GILMAN. The forecast is in very close agreement with the pattern that has already occurred and would tend, I think, to maintain the percentages that are present there although it does not necessarily imply an increase in the percentages.

Mr. DINGELL. You are indicating to us that you are finding that the same pattern generally is going to obtain?

Mr. GILMAN. We believe that the present pattern is one that has considerable stability and we do not find evidence for changing it right now.

Mr. DINGELL. Of cold weather and serious problems?

Mr. GILMAN. Yes, sir.

Mr. DINGELL. Are there further questions?

Mr. BROWN. Mr. Chairman, I feel I should apologize to the witness. I guess I am just tired because I got up an hour early this morning on the theory that it was supposed to snow.

But I would like to say to the witness that I have a great deal more respect for the ability of the weather bureau than I do for the ability of the Federal Government to manage the economy.

Mr. DINGELL. The Chair thanks you.

We will call our next panel.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. DINGELL. The next panel is a panel of producers, Mr. David Foster, Natural Gas Supply Committee; and Mr. A. V. Jones, vice president, Independent Petroleum Association of America.

Gentlemen, we are pleased that you are with us.

Gentlemen, if you will identify yourselves for the purpose of the record, we will be pleased to receive your statements.

STATEMENTS OF A PANEL CONSISTING OF DAVID H. FOSTER, EXECUTIVE VICE PRESIDENT, NATURAL GAS SUPPLY COMMITTEE, AND A. V. JONES, JR., PRESIDENT, INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA, PRESENTED BY H. B. SCOGGINS, GENERAL COUNSEL AND VICE PRESIDENT, CONGRESSIONAL AFFAIRS

Mr. FOSTER. My name is David H. Foster. I am executive vice president of the Natural Gas Supply Committee, an organization which represents the major and independent producers of natural gas. I do not, of course, speak for the pipelines, the distributors, or the users of natural gas. The Natural Gas Supply Committee is a registered lobbying organization which exists for the purpose of educating the public as to the nature and scope of the Nation's natural gas problems and working for realistic and viable solutions to these problems.

Producers have always believed that the best—indeed, the only workable approach to solving both the short-term emergency and the long-range supply problem is complete deregulation of wellhead prices. Only by permitting the wellhead price to go to market clearing levels can we encourage conservation of this most precious fuel, discourage wasteful and uneconomic consumption and provide incentives for discovery of new supplies.

In this time of crisis, many have expected producers to indulge in smug cries of "we told you so." But the current crisis is far too serious, far too painful in terms of lost production, lost wages, lost education, and plain human suffering for anyone to take satisfaction. Let me only say that the real tragedy of this winter's shortage is that it could have been dealt with, it should have been dealt with, years ago when the fact of dwindling supplies of natural gas in the interstate market became apparent to every objective observer.

One thing must be made clear at the outset: The producers of natural gas are prepared to support any proposal by the administration which is reasonably calculated to help relieve this winter's energy crisis. For this reason, although we have serious reservations about the efficacy of the proposed emergency bill to achieve this end, we have neither opposed nor sought to impede its progress toward enactment. But such a posture on the part of the industry must in no way be construed as endorsement of its provisions or as implied agreement that those provisions will elicit any significant quantities of otherwise unavailable gas.

Based upon our study of conditions in the producing States today, I believe that virtually every Mcf of deliverable gas is being contracted for promptly and is being taken by customers at maximum production rates. If there once were surpluses in the intrastate market, they now appear to have been largely consumed as the result of the extraordinarily cold weather in the gas producing States.

Three points about the proposed bill must be recognized with indelible clarity:

The bill provides no incentives for exploration and discovery and, therefore, no new production will result from it.

Any additional gas brought to the interstate market is the direct result of free-market pricing conditions within the producing State.

Any gas shifted from one region of the country to another this winter will intensify the likelihood of nationwide shortages in years ahead.

The following is a short list of comments on the specific provisions of the bill. The list is certainly not comprehensive because, quite frankly, we did not receive a test of the final bill until yesterday and have no idea how its provisions might operate in all of its aspects. I hope we may be forgiven if we do not offer at this time concrete alternatives to the provisions which we find flawed. We would welcome the opportunity of doing so if time permits.

1. The emergency purchase authorization has been effectively emasculated by the provision for Presidential determination of fair and equitable prices. It is not at all clear that such prices would be determined in advance or that they would be firm.

Moreover, no criteria are indicated upon which such a determination might be made. Although producers have serious doubts that any significant quantity of gas will be found in the intrastate market for emergency purchase at this time or in the near future, it should be clear that an uncertain pricing mechanism is not apt to elicit it.

2. The bill makes unprecedented an altogether unjustified intrusions into the intrastate market by permitting Federal orders requiring intrastate pipelines to transport interstate gas and construct facilities for that purpose. The questionable compensation for such transportation and construction, the attendant disruption of the intrastate market and the complexity of such interconnection would suggest the most compelling showing of need for such action and producers have serious doubt that such need can be demonstrated.

It is our belief that interstate pipelines are fully capable of transporting the quantity of gas to be allocated under these provisions without the use of the intrastate system.

3. The definition of "interstate pipeline" appears to be so broad as to cover sales by and gathering lines of producers selling gas to the interstate market, a result which could scarcely have been intended.

4. The definition of "intrastate pipeline" appears so broad as to cover every single gathering line as well as pipeline in the intrastate market, again a result which could not have been intended.

5. The incredibly broad subpoena powers make no provision for confidential treatment of sensitive data.

6. The antitrust immunity provisions may not extend far enough to adequately protect producers.

We sincerely hope that this bill will help in attaining its stated goals but, as I trust have been made abundantly clear, we have no assurance that it will. If, as now appears to be probable, this legislation is pushed through to enactment, we plead that immediate consideration of a long-term new gas deregulation bill be the very next order of business for this subcommittee and the entire Congress.

Mr. ECKHARDT [presiding]. Mr. Scoggins

STATEMENT OF H. B. SCOGGINS

Mr. SCOGGINS. I am appearing in place of Mr. A. V. Jones, Jr., our president, who was unable to be here. We generally agree with and endorse the statement which Mr. Foster has just given on behalf of the Natural Gas Supply Committee.

The Independent Petroleum Association of America is a national organization of some 4,000 independent producers of crude oil and natural gas who operate in every producing area of the United States.

IPAA long has been concerned with the state of the natural gas supply in this country and has supported legislation to correct the shortage of that supply. The problems we are faced with today have been in the making and have been debated for the past 23 years. As a matter of national policy we have artificially controlled well-head prices of natural gas sold in interstate commerce, thus economically discouraging the exploration for and the development of new and expanded supplies of natural gas.

We commend the administration and Congress for recognizing that we do, in fact, have a critical shortage of natural gas and are attempting to deal with the issue. This bill does not address itself to the basic ill, it only attempts to deal with the symptoms and could be dangerously counterproductive. We are concerned that quick enactment of this legislation will mislead the American people into a belief that Congress has effectively corrected the natural gas supply problem, thereby serving to further delay critically needed corrective legislation to solve the real problem. We are hopeful this will not be the case.

As required by this committee, we will confine our comments to the specific provisions of H.R. 2500 to deal with the emergency.

First, and most important, it will not bring on critically needed new supplies of natural gas. Since extensive leadtime for new gas exploration is required, emergency sales of 6 months' duration clearly cannot help to stimulate new exploration and development.

Secondly, provisions of this bill which allow the President to set prices which producers can be paid for their gas further perpetuate the uncertainties of the past which are responsible for today's shortages of natural gas. To extend price-setting powers to the President only introduces another layer of unneeded Federal Government intervention. It is unrealistic to expect anyone to establish fair and equitable prices within the time frame of this emergency measure, and with no guidelines. This establishes a dangerous precedent which is neither appropriate nor necessary to the solution of the natural gas supply problem.

In addition, a number of other dangerous precedents are set by this bill. The abrogation of producer contract provisions prohibiting the commingling of regulated and nonregulated gas is a dangerous precedent which could lead to intrusions into valid, contractual agreements between producers and their customers. The section nullifying price redetermination clauses of intrastate gas contracts is a further example of unwarranted Federal intervention. If such contract provisions cause local disruptions, those problems can best be dealt with at the State level.

An even more dangerous precedent is that of extending Federal jurisdiction over intrastate pipelines. From the authority to order intrastate pipelines to transport interstate gas, it is but a short step to telling those pipelines who they might serve and what they might pay for intrastate purchases of gas. In fact, it is conceivable that the President, under this legislation, could order an intrastate pipeline to perform interstate functions to the detriment of its regular customers. There is no provision under which intrastate producers, pipelines, and their customers can protect themselves from, or seek

redress for, having their gas supplies interrupted by Presidential order.

To the extent that intrastate gas might be displaced from pipelines ordered to transport interstate gas, this could lead to the shutting in of intrastate gas wells due to a lack of transportation facilities, thus further compounding supply problems.

The same section of the legislation gives the President the authority to order any pipelines to construct any new facility he considers necessary to carry out his orders for transporting gas. This is totally repugnant to the concept of the private enterprise system which has allowed traditionally for individuals and companies to spend and invest on a basis justified by sound economic judgments as to longterm prospective markets, and could constitute the taking of private property without compensation or due process.

We do not know of anyone within the industry, whether producer, pipeline or distributor, who is not sensitive about, and anxious to do whatever is necessary to alleviate distressed supply conditions in the current emergency. In view of this, the broad authority to compel action, subpoena personal appearances and production of documents and impose severe penalty provisions assumes wrongly that there would be devious noncompliance as common criminals. Those provisions are totally unwarranted.

History has proved "tempory" legislation has tended to become permanent. Such extensive and elaborate authority as contained in H.R. 2500 cannot be turned on and off 90 days at a time. Similar "emergency" legislation was adopted by the Congress at the time of the 1973 Arab oil embargo dealing with the allocation and sale of crude oil and refined products. Billed also as "temporary," it is still with us nearly 4 years later in an ever increasingly complex form.

If instead of compounding the problem with a new set of legal impediments—as contemplated by this bill—Congress would enact legislation to "get the Government out of the gas business," the industry could act swiftly and effectively to make available, where most needed, supplies of gas sufficient to minimize distressed situations during this present emergency,

There is no equitable way in which to share a shortage of any commodity. The only answer is to pursue a course of eliminating the shortage. Any realistic analysis of the problem clearly indicates that a long-term solution to the gas supply problem must be found. We have learned from recent past experiences that when the weather warms up, the desire of Congress to confront the natural gas issue cools down in direct proportion.

Mr. Chairman, upon your final disposition of H.R. 2500, we strongly urge you to act immediately on legislation to bring about a long-term, permanent solution to our natural gas supply problem by deregulating the wellhead price of new natural gas which President Carter has identified as one of his primary objectives and which we feel is the only solution to this problem.

Mr. ECKHARDT. Mr. Brown.

Mr. BROWN It has been suggested by the previous panel, the panel of those interstate pipelines that get gas from producers and take it to an area where it is distributed, that a ceiling price should be set in legislation which, according to the testimony, would be an average of

the three highest prices being charged in the field by intrastate producers or in the case of purchasers from an intrastate pipeline or local distribution company at an average of the three highest prices being paid by the intrastate seller.

I wonder if you would comment on that as a possible method of setting a new ceiling price for natural gas?

Mr. FOSTER. Mr. Chairman, let me say most clearly and unequivocally that the producers of natural gas are absolutely opposed to the concept of ceiling prices at any time. That is the one feature of this architecture under which this ice palace has been constructed this winter.

We have 23 years of ceiling prices. The men at the Federal Power Commission, men of good will, have tried to set a ceiling price. I don't think they have deliberately tried to put the price too low. They have tried to find an adequate supplier.

Mr. BROWN. But they are a little slow.

Mr. FOSTER. They are a little slow. In good faith they have tried. I would submit any attempt to set a ceiling price will fail by the same token.

Let me say my comments about ceiling prices are much more forcibly addressed to permanent legislation, of course. In permanent legislation where we are trying to elicit supply and trying to create incentives, of course, ceiling prices have no place.

I heard Governor Briscoe testify this morning and I heard the pipeline people testify. They seem to feel in the short-term emergency bill a ceiling price might have a place. We disagree but we have not had a chance to analyze all the imports of this bill. From a producer standpoint we believe that is a continuation of failed policies.

Mr. BROWN. It was also testified by the same panel that they had been out into the market, the intrastate market, looking for natural gas and in the case, I think of the Columbia Gas System, the one most severely adversely affected of the systems on the panel, that they had a 90-billion Mcf shortfall and they could stir up only about 12 billion Mcf and another panelist suggested even less.

Can you give us some information about whether that is a reasonable conclusion or what the situation might be?

Mr. FOSTER. First of all, let me say that the natural gas supply committee does not attempt to collect data on what gas is available under what circumstances. We have polled our membership, had informal conversations with them, and the result which the pipelines have experienced in terms of not finding very much gas for emergency purchase squares with our own assessment of the problem. There just is not that much gas out there. We were experiencing some surpluses in the intrastate market back in the fall down through early November, but because of the extremely cold weather in Texas, Oklahoma, and the other producing States those surpluses have been dramatically reduced.

We question whether this bill or any other emergency purchase bill will elicit any substantial quantity of gas from the interstate market.

Mr. BROWN. From what I understand, what happened in the market maybe 10 years ago, maybe less, was that the price at which interstate gas was set became a price below which you could bring in new

wells practically and so at that time you had the Clean Air Act passed which made gas a lot more popular as a fuel item because coal was practically outlawed.

Whether it was because it was so clean probably isn't significant because it was the only other choice except oil for heating. So we had a big switch at that time to the consumption of natural gas, did we not?

Mr. FOSTER. Yes, sir.

Mr. BROWN. But the interstate price was frozen. So, most of the new gas found its way into the intrastate market at that point.

Mr. FOSTER. Yes, sir.

Mr. BROWN. The intrastate market is now reasonably full, isn't it, in a normal year?

Mr. FOSTER. Yes; it is. As a matter of fact, the intrastate market this last year did develop surpluses until we ran into this very cold weather.

Mr. BROWN. If there are surpluses in the intrastate market which means that you can't sell it except very close to your cost and if there is no price level in the interstate market that would cover your cost I assume that that has had an adverse effect on drilling.

Mr. FOSTER. Yes; of course. The surpluses were developed in the intrastate market out of the free market system. That is what a free market tends to do. It tends to attract people into the business necessary and they tend to be a little enthusiastic and they create surpluses. Once the surpluses occur and there is no other market to go to, then the drilling activity falls off.

Mr. SCOGGINS. It had the effect of leveling off and reducing the price in the intrastate market in several areas as a result of the temporary surplus.

Mr. BROWN. Columbia made a gas purchase from Canada. The Canadian producers in the western part of Canada were selling their gas and shipping it east to the consumers in eastern Canada who, I gather, have been affected by the weather the same as any place else if that map means anything up there or one can extrapolate what might be just above it. How is it that the Canadian gas producers had a surplus?

Mr. FOSTER. I am not familiar with the circumstances under which a surplus was developed in that market.

Mr. SCOGGINS. I don't know specifically, Congressman Brown, other than the fact that the Canadian Government made a decision, I think you know, a couple years ago to decrease exports of gas to the United States. Their own market was not growing rapidly. Therefore, there was some surplus and, as I understand, there is still some surplus in the Canadian market and they are now allowing some of that gas to move into the United States.

Mr. BROWN. Finally, can you comment on the concern that I feel about the prohibitions in this legislation on page 9, section 6, prohibitions concerning natural gas that should be available but which cannot be sold into the interstate market because of prohibitions under the 180-day or until July 31 sale? Do you understand that section of the bill?

Mr. SCOGGINS. Congressman Brown, frankly I am not sure that I understand what the problem is unless it relates to the offshore

gas. Our members don't operate in the offshore area primarily and we really have very little information about the offshore situation.

Mr. BROWN. It provides that one interstate pipeline cannot sell to another pipeline under emergency provisions. It says that a producer affiliated with an interstate pipeline cannot sell under the emergency provisions. It says that that cannot be done if natural gas is not produced from the Outer Continental Shelf, and it has other provisions, about four or five of these limitations in here.

It seems to me that those limitations in each case reduce the prospect of natural gas being available to special exempt purchasers for use in the interstate market.

Mr. FOSTER. That is correct. We don't understand why those affiliate purchases were prohibited by those provisions. It makes no sense to us. We can't find why those prohibitions were put in the bill. We would suggest they be eliminated. Until someone tells us why they were put into the bill we don't know what evil to combat.

Mr. BROWN. If they are eliminated there would be no gas available in the market other than that which the bill provides.

Mr. FOSTER. Yes. I can't quantify it for you but the provisions make no sense to us at all.

Mr. BROWN. Thank you, Mr. Chairman.

Mr. ECKHARDT. Are you saying, Mr. Foster, that you would like to omit from the language of the emergency purchases the phrase "upon such terms and conditions as the President determines to be appropriate including provisions respecting fair and equitable prices," is that the crux of your statement?

Mr. FOSTER. Yes, sir. It seems to me that that provision as I have suggested in my testimony virtually emasculates what benefits we might gain from these emergency purchases. I don't know how much gas might be available for purchase from the interstate market. But if you are asking producers of pipelines to take a chance on a fair and equitable price with no known criteria and with the possibility that the price might not be firm and it might be redetermined after the emergency sale was completed, I think that would effectively prevent any emergency sale from being made.

Mr. ECKHARDT. If we should eliminate that, what do you envision the price going to under section 6?

Mr. FOSTER. I really have no guess what the price might go to. As I said, I don't think there is very much gas out there to be purchased.

Mr. ECKHARDT. We have some indication perhaps under the 268 sales. As I understand, last week a pipeline purchaser and a gas seller agreed to \$2.75 per Mcf and this was refused by the Federal Power Commission. The next day they came right back with a \$2.25 figure. So might we not well envision \$2.75 prices under section 6 if we had no limitation respecting price?

Mr. FOSTER. Based upon the evidence that you have just cited I certainly could not argue with you, Mr. Chairman, that such a possibility might happen. I really could not say at this time that we might not experience prices of that magnitude.

Mr. ECKHARDT. If you could get \$2.75 for your gas under a section 6 sale, would you not be inclined to sell it to the pipeline rather than to any other customer at a lower rate?

Mr. FOSTER. You would certainly have to evaluate the relative advantages of the 180-day sale as against perhaps a 10- to 15-year firm contract. On the other hand, you have a royalty owner to consider and under the circumstances a royalty owner might feel inclined to have you accept the \$2.75.

Mr. ECKHARDT. Let me posit this sort of situation. Say in the State of Texas where of course residential consumers pay for gas without any restriction respecting price at the wellhead. Presently the mix of gas purchased by a residential consumer in Texas is at a rate somewhat higher than the national rate. If the pipeline selling to Texas consumers should be willing to sell at, say, \$2—that might be all the consumer could pay without raising their prices to an inordinate level; is that a fair statement?

Mr. FOSTER. Yes, sir.

Mr. ECKHARDT. Now, suppose an interstate pipeline with a great amount of gas in the pipeline at lower prices, say around a 40 cents average, comes in and wants to buy gas from you. Can't they pay a good deal more for that gas? Is there really any limit to what they can pay short of, say, \$4 or \$5?

Mr. FOSTER. Certainly the ability of the interstate pipelines to take the very high priced fuels, whether it is LNG or SNG or high priced gas they might purchase under emergency purchases and roll that in with a good deal of low priced gas puts them at a relative advantage in terms of a bidding situation such as you describe, yes, sir.

Mr. ECKHARDT. Let us posit this question. Suppose an industrial user of gas, not for boiler fuel but for a purpose for which gas cannot be substituted by another fuel, for instance, a glass company, is bidding in Texas for gas. At the present time it would go somewhere in the neighborhood of \$2, would it not, probably in that range? The average, I think, is about \$1.65 for the last year.

Mr. FOSTER. Yes, sir.

Mr. ECKHARDT. Now, what is it going to do if it has to bid against an interstate pipeline under section 6 without any price limitation? Does it really have a chance to get gas on the spot market?

Mr. FOSTER. I think you have raised a very real concern.

Mr. ECKHARDT. That is what Governor Briscoe is concerned about. It is a very legitimate concern.

Mr. BROWN. Will the gentleman yield?

Mr. ECKHARDT. Sure.

Mr. BROWN. One of the problems that the consumer would face on gas bid to that high a price when it came to him, however, is that the cost of gas is about 15 percent of his gas bill whereas in Texas the cost of the gas, I would assume, would be a great deal more of the gas bill because it has to be transported a good deal less.

The money in the gas bill for the consumer in my part of the country is not the cost of the gas but it is the cost of getting the gas up there. If we bid a high price for the gas you still have overlaid on top of that this very high transportation cost which in Texas the consumer does not have to pay. So he could theoretically bid more for his gas and still have a lower gas bill. Do you follow my argument?

Mr. ECKHARDT. I don't think he could bid \$5. At any rate, I am not really arguing the merits of the Texas consumer against the Ohio consumer. I am trying to see how this bill would work with respect

to bidding up intrastate gas prices. Do you not feel it would in fact bid up intrastate gas prices if there were not limitation?

Mr. FOSTER. I certainly would not be in a position of claiming to you, Mr. Chairman, that that would not happen. I think that you have posed a real problem as was posed this morning by Governor Briscoe as to what is going to happen to users of natural gas in the producing States under this kind of emergency bill.

This points up one of the real flaws of going after the emergency bill. That is that it does not attack the supply side of the problem. I enjoy discussing the pricing impact on consumers of this kind of bill, but I think to discuss that shows that we are dealing with the wrong end of the problem. This bill does not produce any additional supplies of natural gas. It is only when we begin to do that that we can begin to touch the pricing problem.

Mr. ECKHARDT. The last time, you know, we were urged to change a temporary bill for the winter season to a bill that did address the question of long-term gas prices. In the Senate the bill was the Pearson-Bentsen bill and in the House it was the Smith substitute. The two bills were sufficiently related to the same subject to permit them to be considered in conference committee.

Did you at that time urge that the conference committee be appointed so that it could get to the matter right then? We could have done that last term, you know, if we had had a conference committee appointed in the Senate. I was wondering what you and your organization did with respect to pressing for a decision last winter.

Mr. FOSTER. I think, Mr. Chairman, that we felt that the Smith bill as it was adopted by the House of Representatives offered so little chance of solving the long-range natural gas problem in any manner whatsoever that we felt it could not be brought to a successful conference with the Senate bill.

Mr. ECKHARDT. Didn't you find the Pearson-Bentsen bill entirely to your taste and the Smith bill would be at the other extent of the brackets? That is what we ordinarily do in a conference, we try to come to some kind of compromise. You might have gotten the Pearson-Bentsen bill. Why didn't you try for it?

Mr. FOSTER. One of the problems in trying to follow a legislative path over a number of years is that what last year was a compromise turns out this year to be your most favored provision. The Pearson-Bentsen bill adopted by the Senate in October 1975 represented a substantial and material compromise on the part of the gas producers.

Mr. ECKHARDT. So you folks did not want to take a chance that the Smith substitute might pass; is that right?

Mr. FOSTER. Mr. Chairman, our position has always been that we could not support in any kind of way a natural gas bill which we felt would fail. That would ultimately result in nationalization of the natural gas industry. If we were to support the bill, that would not in any way ameliorate the supply problem and this industry would be in worse shape than it is right now in terms of public image.

Mr. ECKHARDT. You thought Pearson-Bentsen would fail and the Smith substitute might pass, so you just didn't want a conference to run that risk?

Mr. FOSTER. We felt that was a margin between these two bills that could not result in any kind of satisfactory union, sir.

Mr. ECKHARDT. It could have come out Pearson-Bentsen pure and simple.

Mr. FOSTER. I can scarcely believe that is your honest political assessment of the matter.

Mr. ECKHARDT. Or it could have been a compromise, but you didn't want to take that chance because you did not want to stray even a small distance from Pearson-Bentsen.

Mr. SCGGINS. Mr. Eckhardt, if I might interject here, from the viewpoint of the independent producers the Pearson-Bentsen bill was a substantial compromise below what we thought was a minimum that ought to be adopted in the way of natural gas legislation.

Mr. ECKHARDT. So if you could not get that you did not want to run the risk of moving even one iota in the direction of the Smith substitute?

Mr. SCGGINS. That is correct. As Mr. Foster just pointed out, we knew that that would eventually result in nationalization of the industry.

Mr. BROWN. Would the gentleman yield?

Mr. ECKHARDT. Sure.

Mr. DEVINE. Mr. Chairman, a point of order. I have been waiting. May I be recognized for a question or two?

Mr. ECKHARDT. Surely.

Mr. DEVINE. I would like to direct a question to both of you gentlemen. Were you both here when this so-called consumer panel testified?

Mr. FOSTER. I heard most of the testimony.

Mr. DEVINE. Did you hear the testimony of Mr. Flug—

Mr. SCGGINS. I heard most of it.

Mr. DEVINE [continuing]. Representing an organization describing itself as Energy Action, and I am not sure just exactly what the consumer organization is except it is generally a self-appointed group of persons that presume to posture themselves between the public and the elected officials.

Statements were made unchallenged and I think perhaps you gentlemen may be in a position to either confirm what was said or deny what was said or at least clarify the record.

This director of the Energy Action group said:

Let there be no mistake, deregulation is now nothing more than a euphemism for energy piracy. Deregulation would allow those who have hidden, withheld, and diverted natural gas from interstate markets to reap high windfall profits in selling that very gas.

That brings up the question I asked an earlier panel and one that you gentlemen addressed generally.

No. 1, are you secreting, hiding away a large supply of natural gas waiting to rip off the consumer when we get permanent deregulation? Is that true, and, No. 2, is this a euphemism for energy piracy?

Would you respond to the charges made against the industry?

Mr. SCGGINS. Mr. Devine, the issue of withholding natural gas reserves, the charge has been made time and time again. The FPC, several of the Federal courts and committees of Congress have found there is no truth whatsoever to this charge.

On behalf of the independent producers who operate primarily in the intrastate market I can assure you gas is not being withheld. They operate on such a small margin and they always have their royalty owner and their investors looking over their shoulder to see that they get the maximum return as soon as possible. They have to find a market for their gas and move it as quickly as they can after they find a reserve of gas. They certainly are not withholding any gas.

Mr. DEVINE. Mr. Foster, do you have any comment on this overall subject?

Mr. FOSTER. The search for that hidden gas has been going on for as long as the search for the lost cities of gold and for the Loch Ness monster. Every year somebody comes up with a new charge that the monster exists and if we only invent some new independent agency with some new sophisticated equipment we will go down to that lake in Scotland and find the monster just as I am sure the Oversight Committee some day will say they have invented some new technique to find this hidden gas.

The charge has been around for as long as I can recall. They have been searching with a very large sophisticated intelligent and aggressive staff. They have had broad subpoena powers, endless documents have been submitted on sight unseen.

Searches have been conducted and still this hidden natural gas has not been found. It does not exist. The major independent producers of natural gas have been doing their best under an absurd pricing structure to bring the maximum amount of gas to the market as quickly as possible. That is the one charge that cannot be refuted.

Let us be realistic. Let us say that is a challenge of rhetoric between me and Mr. Flug. The one thing to do for the Congress of the United States is to draft a piece of legislation that says that if any such gas as that comes out of hiding, of course, it will not get a deregulated price. That is what the Senate did with S. 2310. They put in a definition of new gas which would not reward anybody who has been hiding gas. That is what we urged last year and this time to the House of Representatives, to draft a definition of new gas so that anybody who has been hiding any gas would not get a new gas price, they would not be rewarded for that kind of behavior.

Mr. DEVINE. I thank the gentleman for the response. I think the record should be made clear because these stories are repeated so much that the general public has been led to believe them and some of our colleagues aren't beyond the stage of demagoguery and rhetoric that they might spread this type of thing around.

Mr. BROWN. I think it would be nice if we could ask staff to ask Mr. Flug and his organization just whom they do represent, who finances them, because I do know who Lee White's organization is financed by and I think the people who finance it are not served too well by their positions on energy. I don't know whom Mr. Flug represents. That is why I didn't bother asking him any questions.

Mr. DEVINE. I notice in his statement he quotes the Texas Observer as saying that they are a "Washington research organization that monitors Government and industry behavior in energy matters." I am not sure exactly what that says but that is what they claim to be.

I yield back the balance of any time I may have, Mr. Chairman.

Mr. DINGELL. Gentlemen, the Chair thanks you for your assistance to us. We are delighted to have had you with us. We appreciate your courtesy.

Mr. ECKHARDT. Mr. Chairman, I should like to ask unanimous consent that summaries of intrastate natural gas prices for the first quarter, the second quarter, and third quarter as reported by the Federal Power Commission, and also that a new release of the Federal Power Commission concerning "FPC Grants Tennessee Natural's Request for Emergency Natural Gas Relief" be placed in the record.

Mr. DINGELL. Without objection, the documents referred to will be placed in the record at the appropriate place.

[The documents referred to follows:]

FEDERAL POWER COMMISSION,
Washington, D.C., November 4, 1976.

FPC RELEASES SUMMARY OF INTRASTATE NATURAL GAS PRICES FOR SECOND 1976 QUARTER

The Federal Power Commission today released a staff report summarizing prices which independent natural gas producers subject to FPC regulation received for their intrastate gas sales during the second quarter of 1976.

The monthly weighted average price for new contracts for intrastate, or non-jurisdictional sales, averaged \$1.59 per thousand cubic feet for the second 1976 quarter, compared with \$1.55 for the previous quarter.

The weighted average price for new contracts for the second quarter ranged from 70.4 cents per thousand cubic feet in Arkansas to \$1.78 in Alabama.

Prices for renegotiated or amended contracts averaged \$1.66 per thousand cubic feet, compared with \$1.78 for the first 1976 quarter. These weighted average prices ranged from 52.0 cents in Colorado to \$1.90 in Alabama.

The report covers independent producers with more than one billion cubic feet of annual jurisdictional sales. This is the fourth summary issued since the Commission's January 1975 order (No. 521) establishing a new form (No. 45) for collection of the data.

The Form 45 reports were filed by 109 natural gas producers, representing 287 intrastate contracts executed during the second quarter. Producers selling less than one billion cubic feet a year are exempt from making these filings.

Individual Form 45 reports were found by the U.S. Court of Appeals for the Fifth Circuit to contain proprietary information which the Court said must not be made public. The report issued today therefore contains only aggregated data in compliance with the Court's decision.

The entire report, which includes summary tables by state and pricing area, accompanies this news release.

INTRASTATE NATURAL GAS PRICES OF FPC JURISDICTIONAL NATURAL GAS COMPANIES SELLING MORE THAN 1 MILLION Mcf PER YEAR IN INTERSTATE COMMERCE

SUMMARY BY STATE AND FPC GAS PRICING AREA, APRIL TO JUNE 1976

On January 9, 1975, the Commission issued Order No. 521 for the purpose of establishing a data collection system designed to investigate rates charged by jurisdictional natural gas companies for intrastate sales¹ of natural gas which were not subject to Commission jurisdiction. Order No. 521 exempts from the filing requirement all jurisdictional producers selling less than 1 million Mcf per year in interstate commerce.² Producers selling in excess of 1 million Mcf but less than 10 million Mcf in interstate commerce report on a quarterly basis, while the larger producers report on a monthly basis. A compilation of the responses to this order as filed by 109 companies on FPC Form No. 45 representing 287 intrastate contracts executed between April 1, 1976, and June 30, 1976, is presented in this report.³ The summary represents data from contracts having contract terms of 1

¹ Producers who sell gas only to the intrastate market are not subject to FPC jurisdiction and the requirement of Order No. 521.

² It is estimated that the producers required to report under the provisions of Order No. 521 sell approximately 90 percent of the gas produced nationally.

³ Individual responses were found by the U.S. Court of Appeals for the Fifth Circuit to contain proprietary information which the Court stated must be protected from public disclosure. *Continental Oil Co. v. FPC*, 519 F. 2d 31 (5th Circuit 1975).

year or longer and was analyzed by state and FPC pricing area. Those contracts lacking volume data and percentage sales were omitted in the computation of the average prices and price ranges.

Summary tables by month, by state and by pricing area are provided. The summary tables show the monthly weighted average price for new contracts was 158.80/Mcf for the three months period and for renegotiated or amended contracts a three months average of 165.62/Mcf.

Detailed data on monthly prices for each state and pricing area and an analysis of the volumes of gas sold at varying prices is also provided.

These contract prices, the sum of base price and adjustments may be affected by various contract terms relating to delivery points, take-or-pay obligations, length of contract, renegotiation provisions, etc. Furthermore, some of the prices summarized in this report reflect prices in sales between affiliated companies.

SUMMARY: APRIL TO JUNE BY MONTH

[Cents per thousand cubic feet]

	April	May	June	May-June
NEW CONTRACTS				
High.....	216.08	201.42	204.38	216.08
Average.....	172.94	139.16	167.16	158.80
Low.....	51.28	14.55	29.34	14.55
Percent contract volumes sold between:				
20¢ to 25¢.....	16.1	0.2	4.7	7.4
15¢ to 20¢.....	61.7	52.8	79.6	62.5
10¢ to 15¢.....	20.0	42.9	14.9	27.5
5¢ to 10¢.....	2.2	4.1	0.3	2.5
0 to 5¢.....			0.5	0.1
Contract volumes (thousand cubic feet).....	45,254,440	44,045,409	26,980,827	116,280,676
RENEGOTIATED OR AMENDED CONTRACTS				
High.....	209.00	233.91	217.56	233.91
Average.....	122.25	183.16	170.90	165.62
Low.....	18.10	16.10	48.58	16.10
Percent contract volumes sold between:				
20¢ to 25¢.....	2.9	5.1	21.3	9.3
15¢ to 20¢.....	29.8	90.5	56.5	66.7
10¢ to 15¢.....	29.5	0.8	14.7	11.5
5¢ to 10¢.....	36.9	3.3	4.2	11.3
0 to 5¢.....	0.9	0.3	3.3	1.2
Contract volumes (thousand cubic feet).....	28,707,827	59,929,844	36,671,731	125,309,402

SUMMARY APRIL TO JUNE BY STATES

[Cents per thousand cubic feet]

	Texas	West Virginia	Wyoming
NEW CONTRACTS			
High.....	216.08		76.24
Average.....	175.63		76.24
Low.....	45.25		76.24
Percent contract volumes sold between:			
20¢ to 25¢.....	21.4		
15¢ to 20¢.....	75.8		
10¢ to 15¢.....	2.3		
5¢ to 10¢.....	0.2		100.0
0 to 5¢.....	0.3		
Contract volumes (thousand cubic feet).....	40,555,733		274,000
RENEGOTIATED OR AMENDED CONTRACTS			
High.....	233.91	75.00	107.84
Average.....	186.76	75.00	96.97
Low.....	18.10	75.00	55.18
Percent contract volumes sold between:			
20¢ to 25¢.....	15.0		
15¢ to 20¢.....	71.5		
10¢ to 15¢.....	11.3		79.4
5¢ to 10¢.....	0.6	100.0	20.6
0 to 5¢.....	1.6		
Contract volumes (thousand cubic feet).....	77,747,592	36,000	135,250

SUMMARY APRIL TO JUNE BY AREAS

[Cents per thousand cubic feet]

	Texas gulf coast	Permian Basin	Hugoton- Anadarko
NEW CONTRACTS			
High.....	216.08	196.06	194.57
Average.....	197.68	135.14	160.77
Low.....	45.25	51.28	14.55
Percent contract volumes sold between:			
201¢ to 250¢.....	42.9		
151¢ to 200¢.....	53.6	34.9	95.9
101¢ to 150¢.....	2.5	34.6	3.0
51¢ to 100¢.....	0.3	30.5	1.1
0 to 50¢.....	0.7		
Contract volumes (thousand cubic feet).....	20, 200, 338	4, 435, 016	54, 943, 041
RENEGOTIATED OR AMENDED CONTRACTS			
High.....	217.56	233.91	198.20
Average.....	199.82	145.11	156.16
Low.....	111.09	45.58	18.10
Percent contract volumes sold between:			
201¢ to 250¢.....	14.3	16.1	
151¢ to 200¢.....	85.5	27.9	92.3
101¢ to 150¢.....	0.2	48.7	4.1
51¢ to 100¢.....		0.2	2.0
0 to 50¢.....		7.1	1.6
Contract volumes (thousand cubic feet).....	59, 224, 256	17, 287, 609	25, 396, 001

FEDERAL POWER COMMISSION
Washington, D.C., June 2, 1976.

FPC RELEASES SUMMARY OF INTRASTATE NATURAL GAS PRICES FOR FIRST 1976 QUARTER

The Federal Power Commission today released a staff report summarizing prices which independent natural gas producers subject to FPC regulation received for their intrastate gas sales during the first quarter of 1976.

The monthly weighted average price for new contracts for these intrastate, or non-jurisdictional sales averaged \$1.55 per thousand cubic feet for new contracts for the period covered—January through March 1976. This compares with \$1.289 for the last half of 1975.

The weighted average price for new contracts for the first quarter ranged from 71.1 cents per thousand cubic feet in Colorado to \$1.784 in Texas.

Prices for renegotiated or amended contracts averaged \$1.78 per thousand cubic feet, compared with \$1.459 for the last half of 1975. These prices ranged from 54.0 cents in Ohio to \$1.90 in Texas.

The report covers independent producers with more than one billion cubic feet of annual jurisdictional sales. This is the third summary issued since the Commission's January 1975 order (No. 521) establishing a new form (No. 45) for collection of the data.

The Form 45 reports were filed by 86 natural gas producers, representing 261 intrastate contracts executed during the first quarter. Producers selling less than one billion cubic feet a year are exempt from making these filings.

Individual Form 45 reports were found by the U.S. Court of Appeals for the Fifth Circuit to contain proprietary information which the Court said must not be made public. The report issued today therefore contains only aggregated data in compliance with that decision.

The entire report, which includes summary tables by state and pricing area, accompanies this news release.

INTRASTATE NATURAL GAS PRICES OF FPC JURISDICTIONAL NATURAL GAS COMPANIES SELLING MORE THAN 1 MILLION Mcf PER YEAR IN INTERSTATE COMMERCE

SUMMARY BY STATE AND FPC GAS PRICING AREA, JANUARY TO MARCH 1976

SUMMARY JANUARY TO MARCH BY MONTH

[Cents per thousand cubic feet]

	January	February	March	January— March
NEW CONTRACTS				
High.....	199.50	212.80	190.18	212.58
Average.....	154.64	161.68	151.85	154.80
Low.....	13.61	14.55	71.10	13.61
Percent contract volumes sold between:				
20¢ to 25¢.....		1.1		0.2
15¢ to 20¢.....	59.6	66.3	51.5	56.9
10¢ to 15¢.....	30.1	27.2	43.5	36.4
5¢ to 10¢.....	9.9	5.5	5.0	6.3
0 to 5¢.....	0.4			0.2
Contract volumes (thousand cubic feet).....	13,377,632	12,356,437	28,074,894	53,808,963
RENEGOTIATED OR AMENDED CONTRACTS				
High.....	220.84	220.94	220.84	220.94
Average.....	183.99	170.28	162.05	178.03
Low.....	25.32	26.42	45.25	25.32
Percent contract volumes sold between:				
20¢ to 25¢.....	44.9	3.8	10.0	32.9
15¢ to 20¢.....	41.0	75.6	51.8	47.6
10¢ to 15¢.....	2.5	7.7	29.4	7.5
5¢ to 10¢.....	10.8	12.1	12.6	11.3
0 to 5¢.....	0.8	0.8	0.1	0.7
Contract volumes (thousand cubic feet).....	93,885,551	18,067,375	26,277,363	138,230,289

SUMMARY JANUARY TO MARCH BY STATE

[Cents per thousand cubic feet]

	Oklahoma	Texas	West Virginia
NEW CONTRACTS			
High.....	184.99	212.80	95.00
Average.....	151.98	178.41	95.00
Low.....	14.55	36.17	95.00
Percent contract volumes sold between:			
20¢ to 25¢.....		0.8	
15¢ to 20¢.....	74.1	85.7	
10¢ to 15¢.....	18.5	12.9	
5¢ to 10¢.....	7.4	0.3	100.0
0 to 5¢.....		0.3	
Contract volumes (thousand cubic feet).....	14,050,415	17,194,230	235,000
RENEGOTIATED OR AMENDED CONTRACTS			
High.....	189.80	220.94	98.04
Average.....	145.59	190.16	86.98
Low.....	25.32	28.16	86.51
Percent contract volumes sold between:			
20¢ to 25¢.....		38.6	
15¢ to 20¢.....	70.9	51.2	
10¢ to 15¢.....	9.8	7.1	
5¢ to 10¢.....	17.6	2.5	100.0
0 to 5¢.....	1.7	0.6	
Contract volumes (thousand cubic feet).....	5,424,590	117,873,690	6,432,737

SUMMARY JANUARY TO MARCH BY AREAS

[Cents per thousand cubic feet]

	Texas gulf coast	Permian Basin	Hugoton- Anadarko
NEW CONTRACTS			
High.....	212.80	190.95	184.99
Average.....	190.38	138.10	146.09
Low.....	50.20	36.17	13.61
Percent contract volumes sold between:			
201¢ to 250¢.....	1.2		
151¢ to 200¢.....	98.7	48.7	43.8
101¢ to 150¢.....		18.8	52.7
51¢ to 100¢.....	0.2	31.9	3.5
0 to 50¢.....		0.6	
Contract volumes (thousand cubic feet).....	11,369,332	5,131,652	18,930,647
RENEGOTIATED OR AMENDED CONTRACTS			
High.....	220.94	204.00	189.80
Average.....	200.48	163.08	149.35
Low.....	45.25	28.16	25.32
Percent contract volumes sold between:			
201¢ to 250¢.....	53.7	63.9	72.9
151¢ to 200¢.....	45.9	24.1	16.7
101¢ to 150¢.....	0.4	9.8	8.7
51¢ to 100¢.....		2.1	1.7
Contract volumes (thousand cubic feet).....	84,689,644	33,479,791	5,344,765

FEDERAL POWER COMMISSION

NEWS RELEASE

WASHINGTON, D.C. 20426



IMMEDIATE RELEASE

JANUARY 24, 1977

No. 22854

Docket No. CP77-137

Tennessee Natural Gas Lines, Inc.

FPC GRANTS TENNESSEE NATURAL'S REQUEST FOREMERGENCY NATURAL GAS RELIEF

The Federal Power Commission yesterday granted a request by Tennessee Natural Gas Lines, Inc., of Nashville, Tenn., for relief to permit it to make emergency purchases of natural gas at an above ceiling price.

Tennessee Natural will make the 60-day emergency purchase of 6 million cubic feet daily at a price of \$2.25 per thousand cubic feet, from two producers in Louisiana.

The Commission two days earlier, on January 21, denied Tennessee the requested authority because the price proposed then -- \$2.75 -- was too high. At that time, the Commission said if the producers were willing to sell the gas at \$2.25 for the entire 60-day period, it would entertain a new request for advance approval of the rate. The new request was filed January 23 and granted the same day. All other terms of the sale are the same as previously proposed.

The Commission in yesterday's order said Tennessee Natural's showing now satisfies the prudent pipeline standard. It said it considered the pipeline's need for gas, the availability of other gas supplies, the amount of gas dedicated to the purchase, the comparison of the price with appropriate market prices, and the relationship between purchaser and seller.

Tennessee Natural's only wholesale customer is Nashville Gas Company.

-FPC-

For further information
call 275-4006 (Area Code 202)

DC-E

Mr. DINGELL. The Chair does express thanks to the gentleman from Texas for assisting the Chair.

The Chair has to go out and arrange for further proceedings in connection with this matter here.

Our next panel is a panel of representatives on the subject of local distribution. Mr. Robert Seymour, chairman and chief executive officer, Consolidated Natural Gas, Pittsburgh, Pa. He is accompanied by George Lawrence, president of AGA.

We are delighted you are both here. If you will come forward and identify yourselves for the purpose of the record we will be glad to receive your statement.

**STATEMENT OF ROBERT E. SEYMOUR, CHAIRMAN OF THE BOARD,
AMERICAN GAS ASSOCIATION, ACCOMPANIED BY GEORGE H.
LAWRENCE, PRESIDENT**

Mr. SEYMOUR. Thank you, Mr. Chairman.

My name is Robert E. Seymour. I am chairman of the board of the American Gas Association, a national industry association representing some 300 natural gas transmission and distribution companies. AGA members serve over 160 million consumers and provide them with over 85 percent of the gas utility service in this country.

I am also chairman of the Consolidated Natural Gas Co. of Pittsburgh serving a four-State area which includes pipeline and distribution systems in certain States hardest hit by the present severe weather, such as Ohio, Pennsylvania, New York, and West Virginia.

I apologize today for the absence of Mr. Reichardt who had planned to be with us. Mr. Reichardt is immediate past chairman of the AGA and chairman of the Washington Gas Light Co., which is a distribution company serving the Washington, D.C., metropolitan area. He had to beg off to attend an emergency matter in his own company. I am sure you will appreciate that. With me is George H. Lawrence, president of AGA.

At the outset, Mr. Chairman, let me say that AGA does support H.R. 2500, subject to some brief but very significant language changes which we believe are essential to assure equitable financial treatment for all parties to emergency transfers, and specifically to assure that donor pipelines and distribution companies, whose consumers have borne the cost of the supplies being diverted, are not only financially reimbursed but to the extent possible will receive repayment in kind for their diverted supplies.

This is certainly consistent with the administration's intent as reflected in its summary of the draft bill which we received on January 24 and we are confident that it is consistent with the intent of all members of this committee, in fact, of all Members of Congress.

We would urge the following changes to implement that intent. In section 4(f)(1) we would urge the addition of the following language after the word "transportation," second line, page 7: "which should include emphasis on compensation in kind where possible."

Immediately following, third line, top of page 7 at the end of the paragraph, we recommend adding: "as will assure equitable financial treatment for all parties to the transaction."

Then, more specifically, to carry out that expression of assuring equitable treatment for all parties we would urge that in the immedi-

ately following section 4(f)(2) that subparagraph (A), page 7, line 6, be rewritten as follows:

(A) for deliveries of natural gas, based upon all costs that would have been recovered by a donor pipeline or its distribution company customers had those volumes been sold in their own market under normal conditions, or, actual replacement cost incurred by a donor pipeline or its distribution company customers, whichever is greater, plus not more than five percent of such cost; and

As stated in AGA's letter of January 18 to you, Mr. Chairman, we support the emergency purchase provisions of section 6(a) and emphasize that they are particularly essential to any successful emergency actions.

We would strongly urge that the emergency purchase period be extended at least through October 31, 1977, to permit a more realistic time frame to replenish our seriously depleted storage volumes. This will help avoid a recurrence of this winter's emergency next winter. Thus, in the last line of section 6(a), page 8, we would urge changing August 1 to October 31 as a date through which all companies could still be increasing storage to the extent possible rather than drawing from it.

Also, in 6(a)(1) we would recommend the elimination of parenthetical language because this prevents a pipeline-affiliated producer from making an emergency sale to any prospective purchaser.

To assure that there are no adverse consequences incurred by consumers served by intrastate pipelines and distribution companies, this intent should be further clarified by adding the following language at the end of section 9(c), page 11: "whether in intrastate or interstate commerce."

While I am not a lawyer, Mr. Chairman, there are two legal points which I believe are more than just technical ones which I would call to the committee's attention for correction.

First, in section 9(a), page 11, we would ask that the words "for breach of contract" be deleted. The reason is that while breach of contract language could adequately protect pipelines, distribution company donors or distribution customers of donor's pipelines could face tort actions alleging negligence which do not involve breach of contract.

Second, we recommend that section 11(a) under "Enforcement" be deleted and that subparagraphs (b) and (c) be renumbered (a) and (b). The reason is that it is clearly possible considering the complexities and time pressures involved that there may be unintentional violations of orders or supplemental orders and that they should not be subject to severe penalties. The willful violation language as provided for in the present subparagraph (b) appears to be sufficient.

For the same reasons, we would suggest that in section 4(e)(2) any person subpoenaed should be afforded the opportunity for a hearing before being held in contempt for noncompliance with a court order. This could be accomplished by inserting the words ", after hearing," in the sixth line of section 4(e)(2), page 6, after the words "court may."

There are certain other technical problems we would also ask to have clarified.

In section 4(e)(1), the subpoena and related powers created by this act are unduly broad. We are confident the act's purpose will be equally well served if these powers are limited to matters germane to

enforcement of the purposes of this act. Accordingly, we recommend the following technical amendments to this subsection:

Section 4(e)(1)(A), insert the phrase "germane to matters relating to enforcement of the purposes of this act," at the end of the sentence.

Section 4(e)(1)(B), insert the phrase "germane to matters relating to enforcement of the purposes of this act," following the words "other information" at the end of the third clause of this sentence.

Finally, in section 2(2), the phrase "under the terms of the Natural Gas Act," should be inserted at the end of the sentence.

I am advised that, as drafted, certain pipelines transporting interstate gas wholly within a single State, presently exempt from Federal Power Commission regulation by virtue of the Hinshaw amendment, would be subject to regulation as to interstate pipeline under this act. These companies would be covered in any event under section 2(3) as an "intrastate pipeline" or section 2(5) as a "local distribution company." We urge the amendment to avoid unnecessary confusion.

In conclusion, Mr. Chairman, and members of the committee, I would restate long-held AGA positions on two very important points and I will do so briefly.

As emphasized in AGA president, George Lawrence's letter of January 18 to you, Mr. Chairman, and all members of the committee, urging immediate passage of emergency purchase legislation, the same reasons which prompt AGA's support for emergency legislation are even more persuasive for the immediate deregulation of new gas because this is what will add new gas supplies.

This is a step which is vital for continuing supplies to consumers and the economy and one for which we can no longer wait. The emergency provisions add no new gas whatsoever; they are simply a vehicle to permit the Government and natural gas companies to have the optimum short-term flexibility in moving existing supplies to points of greatest need.

Also, as you well know, in the past we have strongly opposed mandatory allocations as being counterproductive and could be punitive to companies, regulatory commissions, and consumers who have in the past taken the steps and borne the burdens of improving their own gas supply situation. We still believe this to be true.

However, in the current crisis we recognize that everyone must now do everything possible this winter to protect public health and safety and, to the maximum extent possible, avert human suffering. Therefore, as I stated earlier, we will support this bill and will urge our member companies to do all that they possibly can to implement it.

But mandatory allocation and temporary emergency purchase authority must not become a way of life in this already overregulated industry which delivers our Nation's cleanest, most efficient, and most critical fuel. We must take permanent action to reverse the 4-year trend of declining domestic gas production and recognize that its unrealistically low regulated price will neither promote increased supplies nor be an incentive to efficient gas use.

We accept the administration's commitment for a comprehensive energy plan within 90 days which must address—indeed, we submit, must support—deregulation of new gas. We urge the committee and the full Congress to act on the natural gas portion of it in the most expeditious manner possible. I think we can all agree that solving the

natural gas shortage has now become a major—if not the major—national priority.

We submit that this can only be accomplished by an expedited, aggressive program which simultaneously: (a) Stimulates domestic exploration for conventional natural gas supplies; (b) encourages development of all economically feasible supplemental gas supplies; and (c) pursues maximum conservation programs and most efficient use alternatives.

All of the foregoing are not only essential to the Nation's economic well-being and beneficial to consumers, but they also offer the most preferable environmental alternatives toward solving our Nation's overall energy problems.

I thank you.

Mr. DINGELL. Thank you, Mr. Seymour.

Mr. Lawrence.

Mr. LAWRENCE. I have nothing to add, Mr. Chairman.

Mr. DINGELL. Mr. Brown.

Mr. BROWN. No questions.

Mr. DINGELL. Gentlemen, we appreciate your courtesy. The Chair does apologize to you because we have kept you here a long time.

Mr. SEYMOUR. Perfectly all right, Mr. Chairman. This is a very important matter.

Mr. DINGELL. You have certainly demonstrated remarkable knowledge in this field.

Mr. SEYMOUR. Thank you.

Mr. DINGELL. Our next panel is an industrial consumer panel.

Gentlemen, we welcome you. We thank you for your patience, and we apologize for the lateness of the hour. If you would each identify himself for purpose of the record we would be most pleased to receive your statements.

STATEMENT OF BRUCE A. MELAAS, DIRECTOR OF ENERGY AFFAIRS, CELANESE CHEMICAL CO., ACCOMPANIED BY BILL BRIER, DIRECTOR OF ENERGY RESOURCES, NATIONAL COUNCIL OF FARMER COOPERATIVES, AND GERALD CURTIS, DIRECTOR OF ENGINEERING SERVICES, ARMCO STEEL, REPRESENTING IRON & STEEL INSTITUTE

Mr. MELAAS. I will identify myself and my associates, Mr. Chairman.

Members of the committee, we thank you for the opportunity to present our views, as real industrial consumers, on the President's emergency natural gas legislation.

I am Bruce A. Melaas, director of energy affairs, Celanese Chemical Co. I am accompanied on my left today by Mr. Gerald Curtis, director of engineering services, Armco Steel, and on my right by Mr. Bill Brier, director of energy resources, National Council of Farmer Cooperatives.

Because this is a crisis situation, we do not wish to be heard in opposition to these bills the President, his advisors, and Members of Congress believe might advance the public interest. We share the President's concern, but we also recognize, as the President recognizes, that "this bill will not end the shortages." Therefore it is

imperative that action also be taken now to start to solve the long-term supply problem so that we are not faced with cold homes, closed schools, and layoffs winter after winter.

We are representatives of the largest class of natural gas consumers in this Nation. Industrial and agricultural uses of natural gas are recognized by the Federal Power Commission as being approximately 40 percent. This natural gas is used as fuel and, beyond mere fuel use, is used in essential processes for which there is no feasible alternate and is used as a raw material in the manufacturing process itself, another use recognized by the Federal Power Commission as non-substitutable. Natural gas to us represents jobs for our employees and our customers' employees, it represents consumer products to our customers and, sometimes to their customers.

It represents demands for goods and services from our own suppliers, and it means the difference in economic viability. As one example, for the petrochemical industry, only one of the industries represented here today, a sustained reduction of only 15 percent in the production of basic petrochemicals, either because fuels or feedstocks are not available, would mean a loss of 1.8 million jobs in the United States and a loss of \$65 billion to \$70 billion in production value. That is just one example.

If you look at other of the major labor intensive industries in this country, one must ask, how can steel be made without natural gas to finish the metal? What good is it to have textile plants trying to provide basic consumer necessities, if they can't have natural gas to finish the cloth? How can the farmer be expected to have adequate supplies of fertilizer, how can the food processors do their work, how can the automobile companies finish their automobiles? How can the glassmakers make their product? A list, of course, can go on and on, but the conclusion remains the same: If we are to maintain the level of jobs and, indeed, increase the jobs in American industry, natural gas must be available.

And we believe that the best way to assure an adequate natural gas supply, not only to the industrial consumers of natural gas, but indeed to all high priority users of natural gas is to terminate Federal price controls on at least new gas now so that we can avoid closing our plants and with winter layoffs in coming winters.

The current natural gas crisis has been anticipated. It should come as a surprise to no one that sooner or later a combination of dwindling gas supplies and cold weather would threaten the health, safety, and welfare of American consumers. While we believe the answer to the natural gas shortage is immediate action to deregulate the price of new natural gas in order to increase gas supplies as soon as possible, we now have before us an emergency bill which proposes short-term solutions, solutions which, as the President acknowledged, would not increase gas supply, but only allocate the present gas supply in one manner or another. Hence, the focus is not allocating gas supply, but rather on allocating the gas shortage.

The prospect of the crisis caused by a shortage of gas supply is a matter that has been concerning our industries for a long time. In light of the colder than normal weather throughout the majority of the United States, we have seen no information indicating there is any appreciable amount of natural gas that is presently available in excess of current requirements that could be purchased as emer-

gency gas. If there is such a gas available, a further easing of the Federal Power Commission emergency purchase regulations could get the gas into the interstate market. We had tried, last summer, when a number of us filed petitions at the Federal Power Commission, to get the Commission to use more of its established emergency powers sooner, and we wish they would act on our petitions now to bring more gas to interstate consumers.

We further note that S. 256 and H.R. 2088, which also solve long-term problems by deregulating new gas, already contain emergency purchase provisions which, on balance, appear more readily workable and practical than the procedures envisioned in H.R. 2500. We do recognize that the case of *Consumer Federation of America and Certain Members of Congress v. FPC* does impede access to emergency gas supplies, but these last two cited bills rectify that situation.

As to the mandatory interconnection and allocation of current interstate gas, we are first struck by the question: Why is this provision of the legislation needed at all? Why isn't the Defense Production Act, as amended by the Energy Policy and Conservation Act, sufficient to confer on the President all the authority necessary to respond to an emergency requiring allocation? There may be a good reason why this cannot be used, and we would be pleased to hear it.

Further, we perceive that the mandatory allocation provisions, unless carefully handled under strict standards, could cause harm. For example, distribution customers of a given pipeline now know that they must husband the gas that they have in storage and that they are receiving from their pipeline supplier, releasing it only for its highest priority use.

With the passage of a mandatory interconnection and allocation program, those distributors may feel free to deplete storage and increase the sales of the scarce natural gas, not only for fear that the gas they have been husbanding will be diverted to someone else's use, but also in the hope that if they deplete their own gas supply someone else's gas supply will be confiscated for their benefit. There is no incentive for conservation of that gas currently in storage if the allocation program is perceived as a substitute.

We also note with alarm that there is absolute discretion to take any gas from any interstate pipeline. We also note a provision requiring equalizing of the diversion of gas among pipelines. We must ask, why not divert boiler fuel gas first, especially where the boiler is equipped with installed dual-firing capability, rather than taking priority two and three gas for process, feedstock and plant protection, where there is no feasible alternate except, in some cases, propane, which is already under emergency allocation at the Federal Energy Administration. A proposed amendment to this end is attached as attachment A.

[Attachment A follows:]

Add to section 4(a)(2) a new subsection (D)

Such order shall be limited to volumes of natural gas which would otherwise be expected to be burned as boiler fuel on the transferring interstate pipeline or pipelines. If no boiler fuel gas is available on any interstate pipeline, the President may order the diversion of gas in Federal Power Commission priority three. After the gas in priority three has been diverted, the President may order the diversion of gas in priority two. During the emergency requiring emergency deliveries and transport of natural gas pursuant to sections 4(a)(1)(A), (B) and (C), the President shall prohibit the burning of natural gas as boiler fuel on any

interstate pipeline receiving natural gas pursuant to this title, save and except for such boiler fuel, if any, qualifying as plant protection and such boiler fuel necessary to generate electricity for human needs and essential public services, where there is no alternate fuel capability.

Mr. MELAAS. We note technical and procedural problems with this legislation which may, and perhaps should, be overlooked because of the crisis. We think the red tape in administering this program will, in the end, far exceed the administrative problems of obtaining emergency gas supplies through the Federal Power Commission now. But one thing comes through loud and clear. Whatever other procedural problems, the pipelines who take gas away from industrial consumers are absolutely insulated from liability without regard even to the destruction of property which may result in plant protection if gas is precipitously withdrawn.

Surely the high priority category could extend into category two. At a minimum, the definition of "high priority use" should specifically include the use of gas for plant protection. See the proposed amendment attached as attachment B.

[Attachment B follows:]

Add to section 2(1)(C):

After "... physical property" insert "such as plant protection."

Mr. MELAAS. Please do not misunderstand. If our interstate pipelines' gas is in fact needed to protect human lives and essential public services, we must shut down and lay off people.

We seek no compensation if our interstate pipelines' gas supply is truly needed to satisfy human needs. But we ask the President to see to it that our natural gas is not taken from us and routed directly or indirectly into the same or lower priority uses on another pipeline. Because when our plants go down for lack of gas, it is not simply our stockholders who suffer. The people who work in our plants, and their families, the people who sell us goods and services, the people who consume our products all suffer too.

These or other emergency measures which may be enacted for this winter will do nothing to resolve the basic problem we face the next winter, and the next and the next. Consideration of the short-term palliative will detract from the earliest possible consideration and enactment of legislation to deregulate new natural gas such as defined in S. 256 and H.R. 2088. Why not incorporate into this bill, H.R. 2500, now, comprehensive legislation which addresses the long-term problem as well.

Thank you, Mr. Chairman.

We are available for questions if there are any.

Mr. DINGELL. Mr. Melaas, you have given us a very helpful and very useful statement, for which we thank you.

Mr. Brier, do you have any comments?

Mr. BRIER. No, Mr. Chairman, except to add that we are certainly concerned about the emergency shortage, and we want to cooperate with the committee and the administration in any way we can.

But I would like to again emphasize that this legislation will not solve the gas problem that we have today; it will merely allocate available supplies among pipelines, it will do nothing to ease unemployment, it will have no long-term effect on our natural gas supplies.

We therefore urge the committee to move as rapidly as possible to fully consider President Carter's energy message as soon as it comes to the Congress.

Mr. DINGELL.. Mr. Curtis.

Mr. CURTIS. One point I would like to make, one facet of our natural gas problem is the difficulty of obtaining alternate fuel.

In the Middletown, Ohio, area where Armco is located, we had planned to bring fuel oil in by barge on the Ohio River, and I think most of you know that the Ohio River Valley is in deep trouble because we cannot bring in alternate fuel in order to make up for that gas which has been curtailed. Even though we have the capability of substituting alternate fuel, we are having trouble getting it delivered to the plant. And our transportation people tell me that the prospects for getting transportation on the river in the near future really are not good.

Mr. DINGELL. Can you give us some appreciation of what your transportation situation is on the Ohio? Apparently it is frozen very hard. There is one place where the Mississippi is frozen clear to the bottom.

Mr. CURTIS. As I understand, the river from Paducah to Pittsburgh was pretty much covered with ice. I know at Cincinnati some people tried to walk across it. A few barges have been through, but an insignificant amount of traffic compared to the normal traffic on the river. We have been trying to get some oil from down below Paducah for a month, and it is still down there, we haven't been able to move it up.

What I wanted to say is that we have a capability to substitute oil for natural gas, and we have since November. We have an 80 percent curtailment at Middletown Works, and we have been able to substitute oil and maintain jobs. But when we can't get the oil we are in trouble.

Mr. DINGELL. Would you substitute oil for natural gas in all of your undertakings? Is there any operation you can't use natural gas in?

Mr. CURTIS. No; we can't substitute for every operation. For operations on the primary end of the plant, we can use oil in place of natural gas, like slab heating and high-temperature furnaces.

Mr. DINGELL. How about puddling?

Mr. CURTIS. Well, Armco does not do any puddling, but the big problem we have is on the coating operations and painting.

Mr. DINGELL. And your soak pits, can you run soak pits?

Mr. CURTIS. On soaking pits we have been using oil.

Mr. DINGELL. You can use oil in soaking pits. Are there any processes you have where you cannot use oil?

Mr. CURTIS. Yes; painting. If you try to coat steel with paint, you get into discoloration problems.

Mr. DINGELL. You are talking now about finishing processes.

Mr. CURTIS. Finishing processes are the primary places where we cannot substitute.

Mr. DINGELL. Short of your finishing operations, you can use oil.

Mr. CURTIS. Most every place except the finishing operations, that is correct.

Mr. DINGELL. Mr. Sharp.

Mr. SHARP. I would just like to ask Mr. Curtis, according to your gas company, do you think you will ever go above your 80-percent curtailment again in the next year?

Mr. CURTIS. This thing has been changing daily, and I cannot really project how far curtailments are going to go. It depends on weather.

Mr. SHARP. The situation seems to become increasingly apparent, unless we actually discover more gas, and immediate deregulation would not lead to that immediate discovery, but I understand the argument is that it might over time. It begins to appear to me as though we are going to have to stop operating on the assumption that we will take whatever system we can this year and move on to a system in which we are literally going to have to finally and once and for all, unless the supply situation changes, just tell certain kinds of class of users; "You are not going to be able to use natural gas."

Mr. CURTIS. That is correct.

Mr. SHARP. Do you have any response to that? I imagine economically you would rather not be in that situation, but for all elements of society, I guess.

Mr. MELAAS. I would like to interject a comment there in response to your comment relative to the fact if new gas were deregulated it would not come on for a certain length of time. I do not know what time frame you are talking about. But certainly drilling like any ongoing business, whether it be for gas, oil or any mineral, has a life cycle.

And, therefore, drilling operations are going on now. There are wells being brought in day-by-day. There are reservoirs being sought after. So I do not think that it is an accurate statement to say that if gas is deregulated that it would take an inordinate amount of time to come into the interstate market. There might be gas wells that would come in tomorrow, and if a gas deregulation bill did provide for long-term supplies, that gas could well go into the interstate market tomorrow.

Mr. SHARP. Well, that may well be. But I am wondering if it is in sufficient quantity to assure us that next winter we would not be in the same shape once more, and what I guess I am asking is after we get through this immediate situation, whether or not we should not just assume the worst for the next two or three winters, and to to an immediate curtailment wherever possible of end users.

I am not proposing that for this legislation, I am suggesting it take a lot more analysis than where we are now. But I am just suggesting that I do not know that the case has been made, but that 1.3 trillion cubic feet is going to suddenly come on if we deregulate within the next 2 years to get us back to the kind of demand, I mean, to meet the kinds of demands that people want met.

Mr. MELAAS. Of course, it depends upon the weather to a great degree, as we have seen this year compared to the last 2 or 3 years.

Mr. BRIER. Mr. Sharp, I would like to comment on that, too. I think one thing that deregulation does, whether we want to face it or not, is perhaps enable us to make some hard conservation decisions that may not be politically viable.

Mr. SHARP. Sure.

Mr. BRIER. What I mean by that, is it would discourage wasteful uses of natural gas. In other words, the use of natural gas under dual-fired boilers is preposterous. However it is tough politically for Con-

gress to legislatively restrict uses of natural gas to only certain high priority users.

Deregulation itself, I think, would help restrict wasteful uses of natural gas and reserve it for those uses that we are talking about. In other words, in agriculture, the curtailments we are now suffering, and the ones that concern us for example are the ones that take down our ammonia plants which is the only source of nitrogen fertilizer.

This is a feedstock use. The same thing for pesticides and herbicides production, again category 2 feedstock use of gas. Food processing, is a process use of gas. By definition there is no alternative fuel for these uses of natural gas. Deregulation, I think, would have the effect of putting into effect, whether we like it or not, a conservation program that will also help to take care of the demand side as well as the supply side.

Mr. SHARP. I think there is no question if you drive the price up you will cause some conservation. The question that I have to ask is who gets hurt in the process, and how easily it is for people to move from one source of fuel to the other, so as you can pass that cost on to the consumer, and I realize that is who is going to bear the brunt of this anyway.

All I am just asking, maybe we have to just absolutely forbid certain uses so we have enough for process gas and not take the chance of somebody saying, "Gee, it is still cheaper to generate electricity from gas than it is from oil," or "just because we are set up to use gas we should continue for 2 more years or 1 more year, or for however long it is."

You see what I mean.

Mr. MELAAS. I think, Mr. Sharp, that is what boiler fuel uses, certainly the——

Mr. SHARP. The chief culprit, I mean, that is what everybody gets.

Mr. MELAAS. The biggest culprit in that, and the amendment that we have proposed as attachment A would knock boiler fuel uses where alternate fuel capability exists off the line first, and that is the gas that should be taken first.

Mr. SHARP. Thank you, Mr. Chairman.

Mr. DINGELL. The time of the gentleman is expired.

The gentleman from Ohio, Mr. Brown.

Mr. BROWN. I want to express my regret that this panel, Mr. Chairman, is on so late in the day. I would hope that when we debate this issue next year, and some other time later, that this panel get on earlier because, as I understand it the panel represents more than the majority of the consumption of natural gas in the United States, is that correct?

Mr. BRIER. We think so.

Mr. MELAAS. We think so, yes, the real consumers.

Mr. BROWN. The real homeowner consumers who use natural gas to heat their houses. The point made about what happens with processing, versus boiler fuel uses, being determined by the price of the fuel is extremely significant. The reason that there is so much boiler heating done in the South with natural gas and the reason that you try to generate electricity with natural gas in the South is because it was cheap in the South, years ago. Now it is more expensive in the South, and eventually they will change over and go to

some other more efficient kind of fuel. But so far you cannot change fertilizer out of—

Mr. MELAAS. Sunlight.

Mr. DINGELL. Sunlight, yes, that is correct.

Mr. BROWN. You are better off than I am. Maybe you have not been here quite as long.

Mr. MELAAS. I got up an hour early myself today.

Mr. BROWN. I would like to go to an area where we may not be in quite as much agreement. I think we have something of a Catch-22, or a Hobson's Choice, in the question that some of us face with reference to the shut-backs or the closings in our localities. The economic impact of all of the schools and all of the industries in a limited geographic area being closed down, not to mention the commercial establishments, could be immense for that locality.

Now, my feeling is because we are in my area in that difficulty, that it would be desirable to have industry and public institution users in areas where they have no limitation at this point on their gas consumption, to be obliged to share with us. And I intend to put in an amendment that has the impact of sharing through industry some of the pain.

Mr. DINGELL. Would the gentleman yield for an observation?

Mr. BROWN. Yes.

Mr. DINGELL. I gather that the gentleman is saying for us that it is more blessed to give than to receive, but I cannot agree.

Mr. BROWN. No, I think it is more blessed to give than to receive in this instance because, I thought up until the time the Government started to take gas from Columbia Gas, when they showed the initiative to go out and purchase it from Canada, that there would be no way we would be anything but a reserve in this business. But now I understand in their infinite wisdom the Government may oblige us who have gas only for our homes but not our factories to send any additional gas somewhere else. I must say I have some difficulty with the rather blanket authority in this bill that leads to that kind of wisdom.

But in any event, my question is, what are the problems with such an amendment, and how would you suggest that this amendment be addressed, because I do see one side of it, as the chairman points out.

When our ballbearing plants close down, when our steel plants close down, when our tire plants close down, when our glass-making plants close down in Ohio, because they do not have any gas, I do not think they are going to sell many cars out of Detroit without ballbearings, windshields and tires on them, and it would not be very long then, it seems to me, until Detroit, even though they may have 100 percent of the gas they need, is obliged to cut down.

What do you see as the problem in this business of trying to balance the difficulty, industry and public school difficulty, around the country?

Mr. BRIER. Personally, I am not convinced at this point in time that moving the gas around the country would enable us to serve the amount of industry we are talking about. In other words, curtailments are already in category 2 and 3 on many of our interstate pipelines, and when you get curtailments that high, I am not sure where you are going to get the gas from.

But the point is, the gas has got to be available. Now, certainly, I think, the proposed amendment to the legislation as described in our testimony which suggests a taking of gas on a priority basis, taking boiler fuel gas first is the most equitable method of allocation.

I would assume that the President in allocating natural gas could also hypothetically use the same type of priority perhaps in reverse, providing the essential category 2 uses which you speak of, to try to get industry back on line.

Mr. BROWN. Do you think you could write a broader amendment, though, that would just say if our industries are completely closed down, and somebody else's industry is operating 7 days a week, that they would settle for 4 and we would settle for 4?

Mr. MELAAS. We certainly could. Our amendment that we have proposed in attachment A would certainly propose to take the gas away from boiler fuel users in other parts of the country on the interstate system and share it with you.

Mr. BROWN. But with all due respect, I think, it has been testified to that we do not know, nobody knows, how that fuel is being used when it gets out there to the home, nobody knows whether they are heating the home or the wife is using it for the ceramic kiln that she is operating, and the same thing is true of industry.

You do not know whether the plant is using it to keep the locker rooms warm and the showers at 80 degrees, or whether it is being used in process, isn't that right?

Mr. BRIER. Our experiences indicate that this information should be available. We file that information with the pipelines because in their allocation procedure before the Federal Power Commission they are required to come up with how much gas they consume in each category, and we submit that information upon request of the pipeline since in most cases most of our interstate operations are on pipelines with curtailment plans filed with the FPC. Thus that information should be readily available.

Unfortunately due to the FPC reporting system some of that information may not be overly accurate.

Mr. BROWN. The Chair has been very patient with me, but I want hit one other point, I hope, if I may, and I hope I do not give him an argument on this to beat me because Michigan seems to be a State that is in pretty good shape from the standpoint of its gas. But I have a responsibility both as ranking member to try to bring out as many points as I can on all sides of an issue, but also the ranking member has a district of his own, and I am concerned about my district.

Some industries have located propane to fill in at their own plants. And some plants, they do not have to fill in because they have got 100 percent of the gas needed.

Now, if we curtail the gas deliveries down to 80 percent of the gas needed, they would have to use propane. But if they do not have the propane there, what kind of a problem would that present, do you have any idea?

Mr. BRIER. Well, one of the things which concerns me about propane and, of course, in agriculture we use it on the farm a lot, in many rural areas it is the only fuel source we have. We are deeply concerned about an FEA announcement earlier this week which will sharply increase the use of propane for peak shaving by utilities.

This may very well dry up propane supplies that some industries were planning on using for the purposes you point out.

Mr. BROWN. Process.

Mr. BRIER. Yes, as substitute in small quantities for curtailed natural gas which would allow the facility to remain open. Now, quite frankly, we have not had an opportunity to review the FEA amendments in detail but there is only a certain amount of propane available, and when FEA allows it to be used for peak shaving purposes far in excess of what has been allowed in the past, this could cause some very difficult problems in that market which could work in the opposite direction you are suggesting and the very type of thing we try to do at plants where it is feasible to do so.

Mr. MELAAS. In answer to your original question, Congressman Brown, we would be pleased to work with you and the committee on the wording of such amendment that I think you were proposing in the start of your statement.

Mr. SHARP. Would the gentleman yield?

Mr. BROWN. Yes, I yield, with just one final comment. My Senator, Senator Glenn, and Congressman Broyhill and I, all of whom share the same kind of problem, each have a different approach to this problem, and I am not sure, quite candidly, which one is right. I would like to be able to submit to you the three different ideas and have you give me some judgment.

Mr. MELAAS. We would be pleased to do so.

Mr. BROWN. Now I will yield the balance of my time.

Mr. DINGELL. The gentleman from Ohio has exhausted 12 minutes of his 5 minutes and may yield such time as he wishes.

Mr. SHARP. I see we are operating under the normal rules there, Mr. Chairman. Thank you.

To follow up on what Mr. Brown has said, Mr. Chairman, it is sometimes kind of difficult to tell where all of us stand in this. If I understand his concern, it is a similar one I have where our plants are curtailed, they are closed now and they need process gas in order to open up again, but it is essentially the need for process gas.

What Mr. Brown and I are concerned about, is there any way at all to move any gas toward our plants to open them back up again? I believe that is one of his chief concerns.

Mr. BROWN. Ball jars, for instance, because you screwed us up with can lids, and you are not going to be able to make the glass.

Mr. SHARP. No, let me tell you, the canning lid plant is closed. The one—one of the chief lid plants in the country is closed, and we are going to have problems next summer with lids for canning jars. The jars are made, the lids are stopped again.

Mr. MELAAS. We had that 2 years ago, didn't we?

Mr. SHARP. That is right, we are back where we started. We thought we were solving the problem. But back to the question—I got conflicting ideas here as to what you people are willing to do or not to do or see done. It is my impression you do not want the President to have the authority to allocate at that level, am I wrong?

Mr. Brier, you expressed, unless I misunderstood you, the suggestion that the President under this bill will have that authority. It is my understanding he will not, that the only thought he will have for allocation will be to meet priority 1 which is expanded a little bit perhaps, because it is going to be on health, safety, and property,

and plant protection is included. So I realize your desire to clarify that.

Mr. BRIER. I agree. I was responding, I thought, to a question on the part of Mr. Brown, if it is feasible to go the other way, and how would you do it. I was merely offering it out as a suggestion. I agree with you completely, the authority is limited essentially to category 1.

Mr. SHARP. The movement, as you can understand, is going to be on the part of some Members of Congress to try to broaden the allocation authority, in the hope that they can get gas to open plants. Now, everyone who testified today has said that it is an impractical and impossible thing to do. Believe me, I would love to do it, if I thought we could practically do it. And, I guess, I would like a little elaboration from you as to why I assume you are going to testify here that it is not possible. We have had several blanket statements.

Mr. MELAAS. Why did the prior testifiers say that that was not possible? Did they say because of the supply?

Mr. SHARP. Well, that has not been as clear, except it does seem to me that the testimony has been that there is not adequate supply, even in Michigan and Wisconsin and some of those seem to be better off, to have much of a dent on the areas that are without, their curtailment on 2.

But secondarily and almost more specifically—nothing could be more significant than absence of supply, but I mean is the administrative difficulty of making any kind of reasonable decision in any reasonable time?

Mr. BRIER. I think the allocation, when you get into this issue, I think we all agree on allocation by use like FPC 467 scheme which is essentially the amendment we are proposing here, taking off the least important uses first, and going up to the more vital uses. This we all can agree on.

But I could make, I would hope, a forceful argument—at least that is what I get paid for—that food processing and fertilizer manufacturing are easily the most single important industries in this country, and I am sure that my colleagues—

Mr. SHARP. It is very close almost to jars.

Mr. BRIER. Steel could make a similar argument, and the glass industry could make the same argument, and so forth. What we can agree on are the importance of process, feedstock, and plant protection uses. But where the thing starts to fall apart is when we attempt to allocate based on end products. In other words, which industries are the most important?

Mr. SHARP. In other words, in the allocation system if there were not enough to generally supply curtailment 2 priority categories and you had to sort out among them, you are suggesting maybe a whole series of decisions as to maybe why this one over that one.

Mr. BRIER. I have not had an opportunity to review it in detail, but as I understand Senator Glenn's amendment on the Senate side, it is allocation based on end use, it picks out glass and ballbearings and, I think, food processing for priority treatment.

I would assume based on whatever is in your district you would have perhaps slightly different attitudes and, I think, that would be applicable to us at this table as well.

Mr. SHARP. You are very wise, but feedstocks, we need fertilizer in summer as well, or this spring.

Well, thank you, Mr. Chairman.

Mr. DINGELL. Gentlemen, the committee thanks you. You have been very patient.

We express our apologies to you for the inconvenience of the lateness of the hour, but you have been very gracious and patient and most helpful. We will certainly keep your comments clearly before us as we proceed to mark up the bill.

The Chair has several announcements to make that, I think, are of interest at this time. The first is that the matter will be discussed in the subcommittee at 9:10 on Monday morning next.

And at 10 o'clock the matter will be carried to the full committee for markup at that time and in that place.

It is the intention of the Chair to have the matter marked up at the earliest possible moment and to conclude deliberations on it before the Sun on Monday, or such earlier or later time as good fortune or necessity permits.

The Chair advises that the chairman of the full committee and I will be in consultation with the Speaker with regard to the fashion in which the matter will be brought to the floor. Under active consideration it is a possibility that this proposal will be on the floor under suspension on Tuesday, and there is also the possibility we will consider recommending to the Speaker some procedure for expediting procedure under the rules of the House, using the rules procedure as set out in the rules of the House.

If there is no further business to come before the committee, the committee will stand adjourned until the call of the Chair.

[The following letters were received for the record:]

CONGRESS OF THE UNITED STATES,
COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D.C., January 27, 1977.

Hon. JOHN D. DINGELL,
Room 2221 RHOB,
Washington, D.C.

DEAR JOHN: This is in response to your request for the comments of the Subcommittee on Monopolies and Commercial Law on the antitrust provisions of H.R. 2500, the Emergency Natural Gas Act of 1977. Because you are working under tremendous time pressure and as the Subcommittee on Monopolies and Commercial Law has not yet met, I requested the subcommittee staff to review the legislation. These comments are my own.

It is of course my concern that any antitrust exemption in the legislation be as narrow as possible, yet at the same time that it not frustrate its emergency-oriented nature. The changes which I suggest in the attached draft are in large part provisions contained in the Energy Policy and Conservation Act, Public Law 94-163. I have also been guided by the comments of the Department of Justice in its recent Report of the Task Group on Antitrust Immunities (January 16, 1977), in which the Department comments on the provisions in the Defense Production Act of 1973 and the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. § 755 (Supp. III 1973)). The provisions in the 1973 legislation were repealed by § 453 of the 1975 act, and the Department felt that with regard to these limited immunities, and in view of the monitoring activities of the Department of Justice, that the exemption (here referring specifically to that contained in the Defense Production Act of 1950) "Appears to give the President the ability to provide for genuine national defense needs, while assuring the maintenance of competitive principles in the affected markets." (Task Force Report at 19).

May I suggest the following italicized changes and additions. A short explanation follows the suggestion.

ANTITRUST PROTECTIONS

§ 5(a) There shall be available as a defense to any action brought under the antitrust laws (1) that the activity which is the subject of such action was pursuant to a request of the President under § 4(d) or was necessary and appropriate to carry out an order under § 4(a), and (2) in the case of any meeting, that such meeting was pursuant to such a request or necessary and appropriate to carry out such an order and was in compliance with the requirements of subsection (b).

Explanation: The addition of the phrase "and appropriate" will make it necessary for a potential defendant to show that his action was a reasonable response, and make it impossible to rely upon a simple assertion of necessity. What is or is not "necessary" is often very subjective, and the addition of the "appropriate" standard will allow the trier of fact to analyze the actions in terms of the action requested by the President.

(b) A meeting held pursuant to a request by the President under § 4(d) or pursuant to an order under § 4(a) complies with the requirements of this subsection if—there is present at such meeting [a full-time Federal employee designated for such purposes by the Attorney General;] *a member of the Antitrust Division of the Department of Justice, appointed by the Attorney General, and a member of the Bureau of Competition of the Federal Trade Commission, designated for such purposes by the Director of the Bureau of Competition.*

Explanation: As presently drafted, the phrase "a full-time federal employee designated . . . by the Attorney General" leaves open the possibility that the Attorney General might designate (to use an extreme example) an industry member of an advisory board of some kind. This would provide little antitrust protection.

§ 5(c) *The Attorney General and the Federal Trade Commission shall, when practicable, participate from the beginning in the development and carrying out of agreements and plans of action authorized under § 4(d) or § 4(a). Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anti-competitive effects while achieving substantially the purposes of this Act.*

Explanation: This is substantially the language of the first two sentences of § 252(d)(1) of the Energy Policy and Conservation Act (EPCA). I have added that the participation shall be "where practicable," bearing in mind the emergency nature of the legislation. As well, although the Attorney General and the Federal Trade Commission may, under this suggestion, propose alternatives, they do not have any veto power. I think this is largely overborne by the requirement in present § 5(b)(2) that the record of meetings be made available for public inspection.

I should like to suggest that you add to § 5(b)(3) the following: *The President shall make no order under § 4(a)(1) unless such order (A) describes the substantive actions to be taken under the order and (B) is as specific in its description as is practicable.*

Explanation: This is, in substance, § 252(d)(3) of EPCA. It supplements, for Presidential orders, the publicity requirements of § 4(d) meetings.

May I also suggest the following addition:

§ 5(d) *The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of orders and actions pursuant to meetings under § 4(d) in order to promote competition and to prevent anti-competitive practices and effects, while achieving substantially the purposes of this Act.*

Explanation: This language is drawn substantially from § 252(e)(1) of EPCA. Its purpose is to make sure that a plan does not develop an anti-competitive aspect over the passage of time.

While it is not directly related to antitrust problems, may I also suggest that the language in § 4(a)(1)(C) be amended by some language indicating that the facilities to be constructed therein are not anything other than those that are temporary and related strictly to the required presidential action. If this is not made clear, the danger exists that a facility might be constructed which was either of such a size or so positioned that, in times other than that of shortage, it might have distinctly anti-competitive aspects. For example, if a facility were added which greatly expanded capacity, this might be useful in times of an emergency, but under normal conditions, might represent a significant deterrent to the expansion of a competitor's facilities, as was the case in the landmark *Alcoa* decision.

I hope these suggestions will be of use to you, and should you feel I can be of further service, please do not hesitate to call upon me. I wish you every success in processing the legislation.

Sincerely,

PETER W. RODINO, Jr.,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 28, 1977.

WILLIAM F. DEMAREST, Jr.,
Subcommittee on Energy and Power, House Interstate and Foreign Commerce Committee, 3204 House Annex No. 2, Washington, D.C.

DEAR BILL: I am enclosing a copy of the October 19, 1976 letter from then-candidate Jimmy Carter to Governor Dolph Briscoe of Texas. The Governor has asked me to see that it is included after his testimony in the hearing on the Natural Gas Emergency which took place on 28 January of this year. I seem to recollect that unanimous consent was asked that this be placed in the record at that point, but would appreciate your help in gaining its inclusion if my memory is not correct on this point.

Please let me or Bob Slaughter of my staff know if you have any difficulties with this; thank you in advance for your help.

Yours sincerely,

ROBERT KRUEGER,
Member of Congress.

OCTOBER 19, 1976.

HON. DOLPH BRISCOE, GOVERNOR OF TEXAS,
*Capitol Building,
Austin, Tex.*

DEAR GOVERNOR BRISCOE: The formulation of a workable national energy policy implemented by a responsive, understandable governmental structure will be of highest priority in a Carter administration. If we are to reach our goals of full employment and a healthy, growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. These resources must be produced and used in an environmentally acceptable manner at a cost that the consumer can afford to pay.

A sound energy policy must aggressively promote conservation of our scarce oil and gas resources. This is the only way in which we can hope to make ends meet in our energy budget. But, coupled with energy conservation, our policy must encourage additional production of our domestic reserves.

Eight years of Republican administration have failed to produce an energy policy. Demand for new energy supplies has increased by over 4 percent per year since 1969—even though demand was reduced considerably during the recession triggered by the Arab oil embargo. At the same time, domestic production and resources have decreased substantially, and dependence on foreign supplies has increased from 35 percent prior to the embargo to over 40 percent today.

To increase our domestic production, I have proposed three important steps. First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital. Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Second, I believe we should act to encourage enhanced recovery from wells already in production. As you well know, an average of 60 percent of our oil remains in the ground after standard recovery methods have been exhausted. It is estimated that up to 60 billion barrels of crude could be added to our supply if enhanced recovery techniques are used. Since the environmental costs have already been largely paid on these resources, both consumers and producers alike benefit from development of this resource.

Third, I favor a substantial shift from the use of oil and gas—our highest quality energy sources—to coal, which we have in abundance. We must immediately begin a program to encourage conversion from the use of petroleum and natural gas to coal in those applications for which coal is an acceptable substitute. Our present demand for coal is limited by two important factors. First, we have geared our technological growth to oil and gas for well over 100 years. Second, we have failed to establish a stable regulatory climate in which coal producers are sure of the rules of the game before they make investments in expanded production or new mines. Switching to the use of coal will require strong presidential leadership and proper federal incentives to encourage the conversion process. A Carter administration will provide this leadership.

I hope these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production, while maintaining basic environmental principles, we cannot hope to reverse the unhealthy trends which the lack of leadership of the current administration has produced.

Sincerely,

JIMMY CARTER.

OFFICE OF PEOPLE'S COUNSEL,
PUBLIC SERVICE COMMISSION,
Baltimore, Md., January 27, 1977.

Re Emergency Gas Supply.

WILLIAM DEMAREST,
*Counsel, Subcommittee on Energy and Power,
Room 3204, House Office Building, Annex No. 2, Washington, D.C.*

DEAR MR. DEMAREST: I shall endeavor to make this letter correspondingly as short as is the time frame within which we work. In the event that natural gas is deregulated on an emergency basis, the pricing mechanism should be addressed in the legislation in order to avoid the possibility/probability that the cost would ultimately be rolled into purchased gas adjustment clauses of consumers who do not use or require the additional gas.

Language along the following lines would accomplish this.

"Gas taken by Pipeline Suppliers shall be incrementally priced to Distribution Companies that request emergency supplies and shall in turn be incrementally priced by Distribution Companies to customers of Priority Two (2) and lower."

The aim is to create a statutory prohibition against the probability that Priority One (1) customers who do not need the emergency gas will bear part of its costs through purchased gas adjustment clauses that have part of the cost rolled in.

I will be pleased to testify at committee hearings, meet with you or your designee, and offer my assistance as you may require.

Forty copies of this letter are enclosed for your use.

Sincerely,

JOHN K. KEANE, Jr.,
People's Counsel.

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., January 28, 1977.

HON. JOHN DINGELL,
*Chairman, Subcommittee on Energy and Power,
U.S. House of Representatives,
Washington, D.C.*

DEAR MR. DINGELL: The American Farm Bureau Federation—representing over 2.6 million Farm Bureau member families in forty-nine states and Puerto Rico—wishes to reiterate our support for comprehensive reform of the Federal Power Commission's authority over natural gas prices.

At the January, 1977, annual meeting of the AFBF, held in Honolulu, Hawaii, official voting delegates of the member State Farm Bureaus reaffirmed the following policy:

"Prices of energy supplies should be allowed to move freely in response to supply and demand, except in the case of national emergencies or where public utilities are controlled by regulatory agencies. This will encourage both the development of adequate energy supplies and their distribution on an equitable basis. We are for deregulation of natural gas prices."

Several suggestions have been made to mitigate the current shortages of natural gas in interstate markets which reflect colder than normal weather conditions in most of the nation. One proposal which has received much attention is President Carter's "Emergency Natural Gas Act of 1977." We hope that prior to enacting any temporary legislation you will weigh carefully the benefits of a longer term total deregulation of new natural gas. We fear that a short-run temporary solution would endanger efforts to generate support for the comprehensive reform supported by agricultural users of natural gas. It also should be noted that short-term legislation generally excludes a priority for agricultural users.

Natural gas provides nearly 40 percent of the energy utilized by the food and fiber sector of our economy. Adequate supplies must be provided if production

goals are to be met. Legislation with limited short-term provisions will not meet the full range of needs brought on by the natural gas shortage and, therefore, falls short of solving the problem. Short-term legislation will do nothing to alleviate the long-term natural gas shortage.

In contrast, a bill (S. 256) introduced by Senator James Pearson and Senator Lloyd Bentsen, and similar legislation (H.R. 2088) introduced by Congressmen Bob Krueger and Bud Brown, meets both the long-term goal of improving domestic supplies of natural gas and the short-term goal of attempting to minimize immediate shortages. Delay on comprehensive reform has already been dangerous and costly. The Krueger-Brown bill offers hope for progress on new gas supplies. This legislation should be enacted as soon as possible.

Sincerely,

JOHN C. DATT,
Director, Washington Office

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., January 28, 1977.

Hon. JOHN DINGELL,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: The AFL-CIO is obviously and deeply concerned about the economic hardship and human suffering caused by the national gas shortage. The picture is an alarming one. Hundreds of thousands of our members are out of work, their children are being deprived of schooling and their homes are cold.

Thus we are prepared to support temporary and limited legislation to alleviate the current emergency, even though we know full well it will have no effect on unemployment.

While we have reservations about the emergency measure proposed by President Carter, we support his proposal, with two modifications.

We urge the Congress to limit the emergency authorization to purchase intrastate gas at unregulated prices only until April 30, 1977, rather than July 3, 1977 as provided in the President's proposal. The longer period would do nothing to meet the current emergency but is designed only to allow the pipelines to replenish reserves. While this is a legitimate concern, it is not an emergency that requires abandoning measures that protect the consumer.

We believe the bill should specifically provide the President with authority in this emergency period to allocate the sale of gas now sold intrastate to the interstate pipelines at the national price set by the Federal Power Commission for interstate gas.

If it is fair and equitable to allocate gas from one interstate pipeline to another, as the proposed bill provides it is equally equitable to allocate the gas from the intrastate market to the interstate pipelines. This would actually create additional gas for the interstate market.

Our support of legislation to alleviate the current emergency should not be misinterpreted. We have long opposed deregulation of natural gas prices. Deregulation of this natural monopoly would have a devastating overall inflationary impact on their entire economy and would create catastrophic financial hardship for the consumer. Our position on deregulation is unalterable.

Sincerely yours,

GEORGE MEANY, President.

OIL, CHEMICAL AND ATOMIC WORKERS INTERNATIONAL UNION,
Denver, Colo., January 27, 1977.

DEAR MEMBERS OF CONGRESS: The "Emergency Natural Gas" bill submitted to Congress by President Carter deserves your support in principle. The bill should not be rushed through Congress so fast that essential amendments to the bill are not considered.

The intent of the bill is very good. It would reinforce powers of the Federal Power Commission to allocate the total available natural gas to ensure that interstate pipelines are on an equal priority basis with intrastate pipelines carrying higher priced unregulated gas. The allocation powers of the FPC must be fully enforced to assure fair sharing of available gas.

The weakness of the bill lies in Section 6. This section provides that the prices of emergency gas sold to the interstate pipelines would be deregulated for the next 180 days. This means that the interstate pipelines would be forced to pay whatever the traffic will bear. The regulated price of gas to interstate pipelines has been already raised from 42¢ to \$1.42 per 100 cubic feet. Unregulated intrastate gas prices are running between \$2.00 and \$3.00 per 1000 cubic feet. This could mean doubling of the gas bills of the final consumer.

Deregulation will not produce a single cubic foot of additional gas. Under the other provisions of the bill, the President will have full authority to allocate gas to all intrastate pipelines on the basis of "cost plus fair profit" to the gas producers.

Temporary deregulation under the Carter bill as it now stands would open the door to permanent deregulation at the cost of billions of dollars to the consumers.

This bill must be amended to remove this weak provision that amounts to surrender to the producers. I earnestly ask for your help in this necessary amendment of the bill.

Sincerely yours,

A. F. GROSPIRON, *President.*

[Whereupon, at 6:18 p.m. the hearing was adjourned.]

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