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OUTDOOR NATURAL GAS LIGHTING

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HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER

OF THE

COMMITTEE ON

INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

H.R. 4576

A BILL TO AMEND THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978 TO PERMIT LOCAL DISTRIBUTION COMPANIES TO PROVIDE NATURAL GAS SERVICE TO RESIDENTIAL CUSTOMERS FOR USE IN OUTDOOR LIGHTING FIXTURES INSTALLED BEFORE THE DATE OF THE ENACTMENT OF SUCH ACT

DECEMBER 12, 1980

Serial No. 96-231

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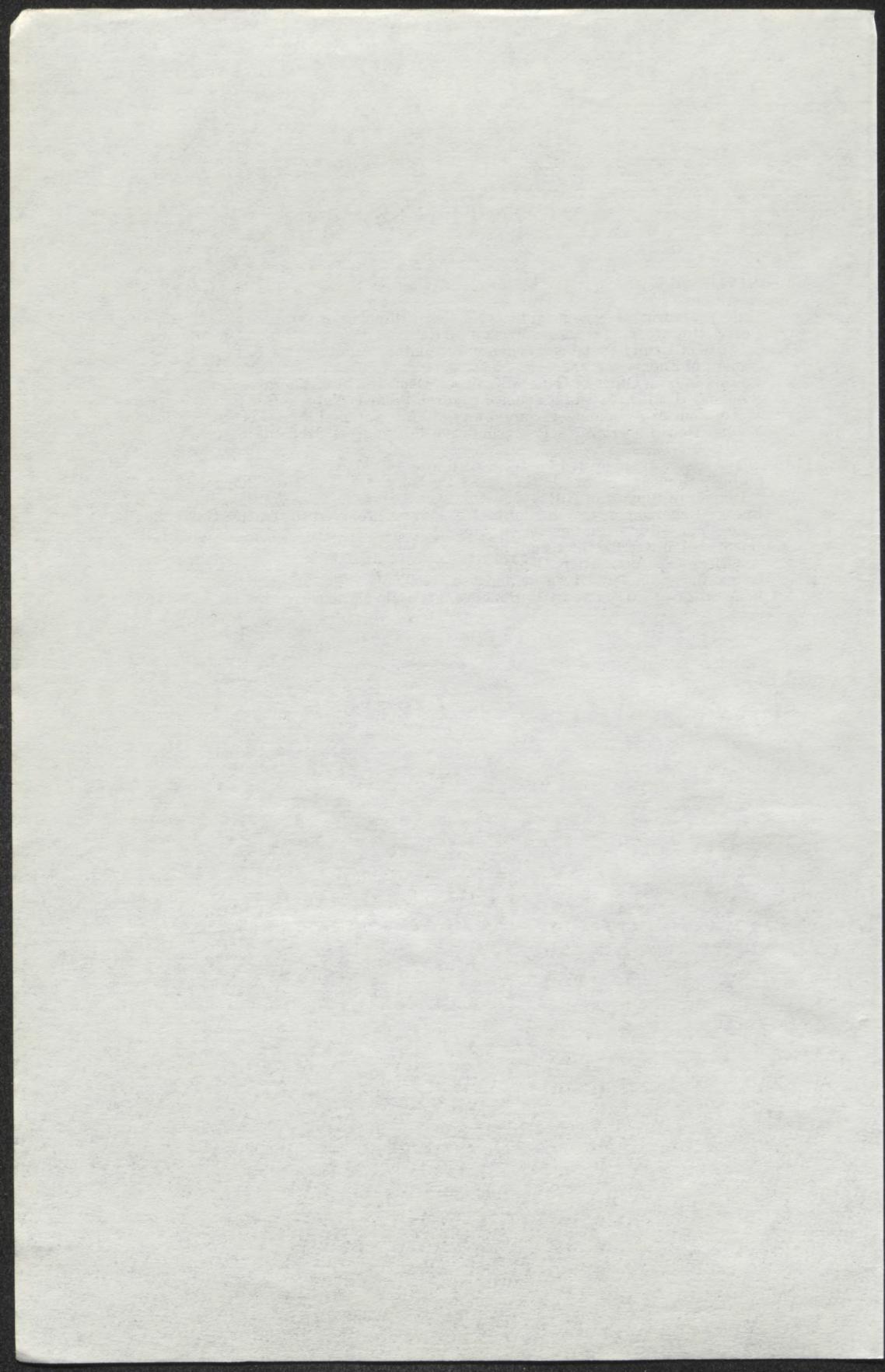
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OUTDOOR NATURAL GAS LIGHTING

FRIDAY, DECEMBER 12, 1980

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

The subcommittee met, pursuant to notice, at 10 a.m., in room 2322, Rayburn House Office Building, Hon. John D. Dingell, chairman, presiding.

Mr. DINGELL. The subcommittee will come to order.

Today's hearing is to examine the Department of Energy's administration of section 402 of the Powerplant and Industrial Fuel Use Act of 1978, which prohibits the installation of new outdoor lighting using natural gas and seeks to eliminate, with some exceptions, such existing lighting. The hearing also will consider H.R. 4576, which would eliminate some of these prohibitions.

The use of natural gas which is a nonrenewable resource in outdoor lighting is wasteful. Such lighting is often decorative, but provides very little safety because the light is generally not very bright.

The Administrator of the Economic Regulatory Administration, Ms. Hazel Rollins, in a February 11, 1980, letter to me expressed the matter quite well:

Natural gas is, in fact, too precious an energy source to be mindlessly burned 24 hours a day in outdoor lighting fixtures.

We estimate that a total of 36 billion cubic feet of gas are used annually in 2 million fixtures. Although every 5.2 fixtures use enough gas in a year to heat a typical home, total annual gas savings attainable, even through aggressive administration of section 402, are not likely to exceed 27 billion cubic feet.

The amount of gas burned is small, but not insignificant. Also, if compared with imported gas, which is the incremental gas, the cost is not small.

The utilities and some of the Department of Energy have consistently resisted this provision of the 1978 act. Both appear to want to continue this wasteful practice, rather than comply with the law or develop reasonable alternatives that would reduce or eliminate this waste. The hearings today will examine this situation.

Our first witness is Mr. Howard F. Perry of the Department of Energy. Mr. Perry's prepared remarks indicate that he is testifying at the subcommittee's request.

The Chair wishes to make it clear that the subcommittee made no such request. In fact, we requested that either the Secretary or the ERA Administrator testify. The Chair is informed both individuals are on travel in these waning days of the administration at a time when they should probably be watching the store.

The Chair wants to make it very clear to this administration and to the new administration that as long as I am chairman, I expect and insist that each agency will send witnesses who are policy-makers and who are appointed by the President, and who are able to speak with regard to policy and administration behavior and policies.

Lower echelon officials may be able to help, but the Chair has some doubt.

The importance of insisting on such witnesses is demonstrated by Mr. Perry's statement that this program "has a low priority." That statement appears at variance with Ms. Rollins February 11 letter to me. But we will be unable to question her about the seeming inconsistency.

Without objection the text of H.R. 4576 will be printed at this point in the record.

[H.R. 4576, introduced by Mr. Young of Missouri on June 21, 1979,

Cosponsored on September 14, 1979, by:

Mr. Goodling, Mr. Badham, Mr. Gephardt, Mrs. Bouquard, and Mr. Brinkley;

Cosponsored on October 19, 1979, by:

Mr. McDonald, Mr. Campbell, Mr. Wyatt, Mr. Bonior, and Mr. Jones of Oklahoma;

Cosponsored on January 30, 1980, by:

Mr. Dickinson, Mr. Wilson of Texas, Mr. Gingrich, Mr. Butler, Mr. Hall of Texas, Mr. Frost, Mr. Quillen, and Mr. Paul;

Cosponsored on April 30, 1980, by:

Mr. Stenholm, Mr. Leland, Mr. Hance, Mr. Steed, Mr. Corcoran, Mr. Chappell, Mr. Loeffler, Mr. Bedell, and Mr. Whittaker;

Cosponsored on June 12, 1980, by:

Mr. McEwen, Mr. Ginn, Mr. Forsythe, Mrs. Boggs, Mr. Clay, Mr. Hillis, Mr. Myers of Indiana, Mr. Hinson, Mr. Gonzalez, Mr. Burgener, Mr. Sebelius, Mr. Roberts, Mr. Seiberling, Mr. Wolpe, Mr. Skelton, Mr. Hubbard, Mr. Montgomery, Mr. Carr, Mr. Duncan of Tennessee, Mr. O'Brien, Mr. Edwards of Oklahoma, Mr. Lundine, Mr. Vander Jagt, Mr. Findley, Mr. Daniel Crane, and Mr. Tauke;

Cosponsored on July 30, 1980, by:

Mr. Cheney, Mr. Quayle, Mr. Evans of Georgia, Mr. Bob Wilson, Mr. Roe, Mrs. Holt, Mr. McClory, Mr. Boner, Mr. Edwards of Alabama, Mr. Harsha, Mr. Erdahl, Mr. Winn, Mr. Bowen, Mr. Pickle, Mr. Jenkins, Mr. Howard, Mr. English, Mr. Symms, Mr. Andrews of North Carolina, Mr. Derwinski, Mr. Anthony, Mr. Synar, Mr. Stockman, Mr. Foley, Mr. Beard of Tennessee, Mr. Kazen, Mr. Alexander, Mr. Jeffries, Mr. Brown of Ohio, Mr. McKay, Mr. Roth, Mr. Moorhead of California, Mr. McCormack, Mr. Lee, Mr. Satterfield, Mr. Breaux, Mr. Fish, Mr. Glickman, and Mr. Michel;

Cosponsored on August 19, 1980, by:

Mr. Lott, Mr. Dornan, Mr. Stack, Mr. Jones of North Carolina, Mr. Preyer, Mr. Lungren, Mr. Porter, Mr. Madigan, Mr. Collins of Texas, Mr. Tauzin, Mrs. Spellman, and Mr. Jenrette;

Cosponsored on September 29, 1980, by:

Mr. Hutto, Mr. Nichols, Mr. Hopkins, Mrs. Byron, Mr. Broyhill, Mr. Marriott, Mr. Santini, Mr. Neal, Mr. Gudger, Mr. Grisham, Mr. Whitten, Mr. Fowler, Mr. Lewis, Mr. Ford of Tennessee, Mr. Swift, Mr. Shumway, Mr. Dannemeyer, Mr. Kemp, Mr. Lagomarsino, Mr. Mathis, and Mr. Leach of Louisiana;

Cosponsored on November 19, 1980, by:

Mr. Hansen, Mr. Dan Daniel, Mr. Levitas, Mr. Huckaby, Mr. Ireland, Mr. Dicks, and Mr. Wirth;

Cosponsored on December 10, 1980, by:

Mr. Heftel, and Mr. Akaka,

is as follows:]

A BILL

To amend the Powerplant and Industrial Fuel Use Act of 1978 to permit local distribution companies to provide natural gas service to residential customers for use in outdoor lighting fixtures installed before the date of the enactment of such Act.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That section 402(b)(1) of the Powerplant and Industrial Fuel
- 4 Use Act of 1978 (Public Law 95-620; 92 Stat. 3289) is
- 5 amended—

1 (1) by inserting "(other than any outdoor lighting
2 fixture installed before the date of the enactment of
3 this Act for use in connection with a residence)" after
4 "use in outdoor lighting", and

5 (2) in subparagraph (C), by striking out the dash
6 and all that follows through "residence," and inserting
7 in lieu thereof "any municipal outdoor lighting fix-
8 ture".

Mr. DINGELL. The Chair observes we have here a statement from our good friend and colleague, the Honorable Robert A. Young, which will be inserted in the record at this point as if read.

[The statement of Mr. Young follows:]

**STATEMENT OF HON. ROBERT A. YOUNG, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MISSOURI**

Mr. YOUNG. I commend the distinguished subcommittee chairman for holding this hearing today to inquire into the issues raised by section 402(1)(b) of the Powerplant and Industrial Fuel Use Act. I appreciate the opportunity to submit a statement concerning H.R. 4576.

I introduced H.R. 4576 on June 21, 1979. The bill would amend section 402(1)(b) of the Powerplant and Industrial Fuel Use Act to allow the more than 1.5 million residential owners of outdoor gaslights to continue to use the lights after January 1, 1982. One hundred and thirty-four Members have now joined me in sponsoring this legislation.

Section 402(1)(b) was included in the Fuel Use Act at a time of apparent shortage of natural gas. That situation has now changed. With ample supplies of natural gas currently available, I believe that we should seriously consider the problems which have arisen as a consequence of section 402(b).

The gaslight prohibition is costly to everyone—the Federal Government, the States, municipal governments, the companies, and the consumer. Many residential subdivisions throughout the country have no street lighting other than gaslights installed by the developer. They rely on gaslights for safety and security of their properties. Thousands of other persons, scattered throughout service areas, installed gaslights on their individual properties for illumination of sidewalks, stairs, and driveways. These individual consumers may now need to pay \$200 to \$300 to convert the lights to electricity.

Whether or not they personally own gaslights, taxpayers are paying for this prohibition. They have paid for the Federal Government to develop and promulgate regulations, and they will pay for the States, and in some cases, the municipalities, to enforce the regulations and respond to the thousands of requests for exemptions. The prohibition causes many problems, while realizing, at best, a potential saving of only fourteen one-hundredths of 1 percent of natural gas usage. When we reach a point where the costs of regulation outweigh the savings, we need to take a long, objective look at what we are doing.

My bill was intentionally written so that it will not change the prohibition in section 402 against installing new gaslights. Although the amount of gas saved by this prohibition is small, it is not an unfair requirement. However, given the plentiful supplies of natural gas, it is both unfair and pointless to marshal the vast resources of the Federal Government against residential gaslights. With the prohibition against new installations continuing in effect, attrition will end this use of natural gas over time.

I believe that the available data, combined with good judgment, clearly argue in favor of amending section 402. A substantial number of my colleagues from both parties and all regions of the

country have joined me in sponsoring H.R. 4576 during this Congress, and I am confident that the number of cosponsors will increase when I reintroduce the bill in the next Congress. I hope that the record developed at this hearing will provide a solid foundation for favorable committee action on H.R. 4576 early in the next Congress.

Mr. DINGELL. We have a letter from our good friend and colleague, Mr. James M. Collins, from Texas, which will be inserted in the record at this point.

[The letter referred to follows:]

JAMES M. COLLINS
THIRD DISTRICT, TEXAS

COMMITTEES
INTERSTATE AND FOREIGN
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Washington, D.C. 20515

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December 12, 1980

The Honorable John D. Dingell
Chairman
Subcommittee on Energy and Power
Committee on Interstate and Foreign
Commerce
2125 Rayburn
Washington, D.C. 20515

Dear Mr. Chairman:

I strongly urge the favorable report of H.R.4576, to amend the Powerplant and Industrial Fuel Use Act to permit the continued use of residential outdoor gas lights. Section 402 of the FUA, which prohibits the supply of natural gas for these fixtures, achieves a very insignificant saving of natural gas, imposes heavy burdens on homeowners and local gas distribution companies and creates a major administration problem in Texas.

DOE has stated that if all outdoor gas lights were eliminated, the natural gas saved would add up to only .14 of one percent of the annual gas consumption. For this small savings each homeowner would pay nearly \$300 per light--a national cost of nearly half a billion dollars for the conversion of two million gas lights. Apart from the cost, many of my constituents are concerned over the loss of this major source of safety lighting. An estimated up to 4 million owners would be affected by this prohibition.

To penalize the local gas distribution company with a fine of \$500 per light which is left burning after January 1, 1982 is unjustifiable. If owners do not extinguish gas lights voluntarily, the subject company has no choice but to stop all gas service to the residences.

In my home state, Texas, there is a particular problem concerning the enforcement of this regulation: that of dual authority. Texas is the only state without a public utilities commission. The Texas Railroad Commission does not have the authority to enforce Section 402 or the FUA. Thus, each of the 800 separate municipalities in Texas would be forced to adopt its own program of enforcement or to let the Federal Government administrate the regulation. Such an implementation of this program would be chaotic.

In these respects the statute is unreasonable and should be repealed. I encourage my Colleagues to vote favorably on H.R.4576.

sincerely,

James M. Collins
James M. Collins, M.C.

JMC:rh

Mr. DINGELL. The Chair advises that Mr. Loeffler will have a statement at the appropriate time. [See p. 16.]

The Chair will now call forward as our first witness Mr. Howard F. Perry, Director, Division of Rates and Energy Management, Office of Utility Systems, Economic Regulatory Administration.

We will be happy to accept your statement.

Do you have anyone with you?

STATEMENT OF HOWARD F. PERRY, DIRECTOR, DIVISION OF RATES AND ENERGY MANAGEMENT, OFFICE OF UTILITY SYSTEMS, ECONOMIC REGULATORY ADMINISTRATION, DEPARTMENT OF ENERGY, ACCOMPANIED BY MARYA ROWAN, OFFICE OF GENERAL COUNSEL

Mr. PERRY. I do have a representative from our general counsel's office, Mrs. Marya Rowan, if she could join me.

Mr. DINGELL. The Chair will presume that you have identified yourselves both sufficiently for the purpose of the record.

Mr. PERRY. Thank you, Mr. Chairman.

I would like to clarify on the record that in fact Mrs. Rollins is not on travel this morning. With respect to where she is, I can assure you that she would much rather be here than there, but she cannot be here this morning. I do have apologies for that.

The Division of Rates and Energy Management, which I run, is responsible for administering Federal programs to increase energy efficiency through the activities of gas and electric utilities, and the State public utility commissions which regulate them.

Statutory authorities for these programs are to be found in titles I and III of the Public Utility Regulatory Policies Act of 1978 (PURPA), title II of the Energy Conservation and Production Act of 1976 (ECPA), and section 402 of the Powerplant and Industrial Fuel Use Act of 1978 (FUA).

This last authority would be amended by H.R. 4576 and is the subject of the subcommittee's hearing today.

Section 402 of the FUA prohibits gas companies from installing new gaslights and from providing the gas needed to fuel existing gaslights. This is, of course, considerable oversimplification; there are provisions for exemptions, several different effective dates for various categories of gaslights, and separate requirements for direct industrial customers. Nonetheless, the essential thrust is to prohibit local gas distributors from servicing outdoor gaslights.

Although DOE was charged with administering this provision, we were also encouraged to delegate our authority to the States. State administration is likely to be more sensitive to the innumerable local circumstances that might enter into any consideration of any exemption request or an enforcement situation.

By a final rule dated May 10, 1979, DOE set forth the provisions for prohibitions, exemptions, and enforcement, and delegated to the States the requisite authority for administering these provisions. By a final revision dated May 23, 1980, DOE eased certain of the provisions of the rule.

Specifically, the revision (1) allowed gas companies to repair existing gaslights, (2) established a separate exemption category for traditionally styled commercial gaslights, as contrasted with gaslights of historical significance, and (3) established a separate ex-

emption category for safety, irrespective of the cost effectiveness of converting to alternative lighting.

To date, every State but Texas has affirmatively accepted our delegation of authority for this program. Texas has refused the delegation on the grounds that neither State nor Federal funds are available to cover the cost of administration, which they claim to be very extensive in Texas.

The 1980 status reports are due from the States to DOE at the end of this month. Although we have received only five to date, every State but Texas reported last year. From the 1980 reports, we will be able to authoritatively ascertain the extent of compliance, and a recent telephone survey, summarized in the attached exhibit [see p. 10], indicates that State activity thus far has been adequate.

The Department does not, as yet, have any specific plans for directly administering the program in those instances where the State either does not accept the delegation or does not adequately carry it out. Since enactment, our position has consistently been that this program has a low priority, because it promises slight energy savings at potentially enormous bureaucratic and litigative costs.

We have assumed that the States will recognize the benefits of running the program themselves and keeping it as streamlined as possible. In light of this approach to administering the existing statute, let me next turn to the points raised by the cosponsors of H.R. 4576, a bill that the Department does not take a position on at this time.

First, the potential energy savings of full and faithful compliance with section 402(b) are, from a national perspective, small. If all existing gaslights were extinguished, natural gas consumption would be reduced by less than one-fifth of 1 percent.

There is, to be sure, another way of looking at the savings: Seven gaslights, more specifically 6.6, use enough gas in a year to heat a home, two gaslights use enough gas to provide hot water. However, total energy use by all the gaslights in existence is rather minimal.

Second, illumination is frequently essential to safety, and converting a gaslight to electricity, while cost effective, is not inexpensive. A do-it-yourself conversion kit runs about \$70, requires considerable skill, and can be hazardous. A contractor would probably charge upward of \$200. At a net energy cost savings of some \$45 per year, the payback period is 1½ years for do-it-yourself and 4½ years for a contractor job.

Third, while "unfair" is a highly subjective term, many homeowners seem likely to resent, and resent rather deeply, being ordered by the Federal Government to turn off their gaslights. Further, we should not underestimate the nostalgic value of gaslights as a cause for deeper resentment.

Fourth, and finally, it is true that section 402 places a considerable burden on both the gas industry and Government. Sending around service crews to turn off the valves is a relatively trivial matter; capping the feeder lines is a good deal more difficult and costly. But it is dealing with irate homeowners and civic groups, and their attorneys, that is potentially the most difficult and time-consuming aspect of compliance.

It seems worth bearing in mind that we are dealing with, in effect, 2 to 4 million "minor fuel burning installations," if you'll pardon the term, each of which represents a potential exemption request or enforcement problem.

These difficulties no doubt underlie the suit brought against DOE by Atlanta Gas Light Co., Laclede Gas Co., Entex, Inc., and the American Gas Association. This litigation is still pending before the Fifth Circuit Court of Appeals in New Orleans.

The plaintiffs contend that the existing statute is unconstitutional and that DOE's administration of the statute has been unreasonable. Since this case is still in litigation, however, the Justice Department advises that it would be inappropriate for me to discuss it further.

In short, what began as a simple statutory remedy for conspicuous waste of a precious energy resource has become something of a "cause celebre," with the specter of a massive Federal enforcement scheme lurking in the shadows.

One can reasonably argue that the unmetered flaring of natural gas at the rate of up to 54 billion cubic feet per year is unconscionable. Unfortunately, the very large number of "minor fuel burning installations" involved means that the existing regulatory approach is potentially monstrous.

This concludes my formal statement.

I will be happy to answer any questions the subcommittee may have.

[Attachment to Mr. Perry's prepared statement follows:]

GASLIGHT BAN -- STATE ADMINISTRATION

State	Affirmatively Accepted Delegation?		Have Adopted Exemption Criteria?	
	Yes	No	Yes	No
<u>Region I</u>				
Connecticut	X		X	
Maine	X			X just starting
Massachusetts	X		in process	
New Hampshire	X		X	
Rhode Island	X		in process	
Vermont	X			X
<u>Region II</u>				
New Jersey	X		X	
New York	X		X	
Puerto Rico	X		N/A	
<u>Region III</u>				
District of Columbia	X			X
Delaware	X			X
Maryland	X		X	
Pennsylvania	X		X	
Virginia	X		X	
West Virginia	X		in process	
<u>Region IV</u>				
Alabama	X			X
Florida	X			X
Georgia	X			
Kentucky	X		X	
Mississippi	X			X
North Carolina	X			X
South Carolina	X			X
Tennessee	X			X
<u>Region V</u>				
Illinois	X		X	
Indiana	X		X	
Michigan	X		in process	
Minnesota	X		X	
Ohio	X		X	
Wisconsin	X		X	

GASLIGHT BAN -- STATE ADMINISTRATION

State	Affirmatively Accepted Delegation?		Have Adopted Exemption Criteria?	
	Yes	No	Yes	No
<u>Region VI</u>				
Arkansas	X		X	
New Mexico	X		in process	
Oklahoma	X		X	
Texas		X		"
Louisiana	X		X	
<u>Region VII</u>				
Iowa	X		X	
Kansas	X		X	
Missouri	X		X	
Nebraska	X		X	
<u>Region VIII</u>				
Colorado	X		X	
Montana	X		in process	
North Dakota	X		X	
South Dakota	X		X	
Utah	X		X	
Wyoming	X		X	
<u>Region IX</u>				
Arizona	X		X	
California	X		X	
Hawaii	X		X	
Nevada	X		X	
<u>Region X</u>				
Alaska	X			X
Idaho	X			X
Oregon	X		X	
Washington	X		X	

Mr. DINGELL. Thank you very much.

The Chair will recognize my colleagues in the order of their appearance.

Mr. Ottinger?

Mr. Sharp?

Mr. SHARP. I thank the chairman.

In terms of administration of the provision that requires no new facilities with exceptions; how is that proceeding in comparison to the effort to retrofit?

Mr. PERRY. From all reports we have received, that is working very well. It has the advantage of being neat and surgically clean, and it is in fact working, from all reports we have had.

Mr. SHARP. Are you aware that there have been very many exemptions that have been granted?

Mr. PERRY. No.

Mr. SHARP. That would be administered at the State level as well?

Mr. PERRY. That is correct, except in Texas where we are still not quite sure what we ought to do. Texas is a big State with a great many gaslights.

Mr. SHARP. What is the remedy available to you under the law in the case of Texas?

Mr. PERRY. The remedy available is to rescind the delegation, if that is the appropriate word. Maybe it is inappropriate, because it has never really been accepted, and to administer it directly from Washington, possibly using the Office of Hearings and Appeals in the Department, which would deal with the functional entity dealing with requests and exceptions.

Mr. DINGELL. You can do that regionally, can you not?

Mr. PERRY. We could, yes, sir.

Mr. SHARP. That would be an action you would be taking against the distribution companies; is that right?

Mr. PERRY. It would be an action against the distribution companies, although it seems to me most unlikely that we could deal with them as a monolithic entity. We would end up dealing with specific civic associations or homeowners throughout the State of Texas, which is not a prospect that specially excites me.

Mr. SHARP. I guess what I am asking is, what are the concrete steps that you would have to take to turn off a bunch of lights on a given street if the State of Texas is unwilling to do anything about it?

Mr. PERRY. Our legal resources to deal with the utility company, if they refuse to comply, I will yield to counsel, Ms. Rowan, on this, but there is a civil penalty by law of up to \$500 per gaslight.

Mr. SHARP. That is levied on the gas company?

Mr. PERRY. That is correct.

Mr. SHARP. So if they sense that there is enforcement, it is highly likely that they would be wanting to move aggressively to comply with the law, if they presume there will be enforcement, if I understand what you are saying.

Mr. PERRY. It would be a bit of a game of chicken, but that is one potential outcome. They just might call our bluff.

Mr. SHARP. Thank you, Mr. Chairman.

Mr. DINGELL. The Chair thanks the gentleman.

The gentleman from New York, Mr. Ottinger.

Mr. OTTINGER. I have no questions.

Mr. DINGELL. The Chair recognizes counsel, Mr. Finnegan.

Mr. FINNEGAN. Mr. Perry, what steps have been made by the Department to inform people in Texas, for example, that this provision of law exists and that they are subject to the prohibitions, or by the company?

Mr. PERRY. Thus far the only steps we have taken are to communicate both by phone and in writing with the Texas Railroad Commission attempting, to be blunt about it, to talk them into assuming that delegation. We have not yet tried the stick approach.

Obviously, over the next 12 months, we do have an obligation under the law to do that, but we have not started to yet.

Mr. FINNEGAN. What is the objection of the Texas Railroad Commission?

Mr. PERRY. The objection basically is that there are a great many gaslights in Texas, that they fear there will be literally thousands of exemption or exception requests, and that they do not have the funds under their State budget nor are we providing them any funds under the statute to carry out what they assume will be a very large administrative responsibility.

Mr. FINNEGAN. Am I correct that the law provides that the utility can make those requests on a blanket basis for its customers; isn't that correct?

Mr. PERRY. That is correct.

Mr. FINNEGAN. The utilities have done that in some cases for commercial customers?

Mr. PERRY. That is correct.

Mr. FINNEGAN. Has any effort been made for residential customers for the utilities to take this step?

Mr. PERRY. Not to my knowledge. Elsewhere, I believe some States are dealing with class action kinds of situations where a given type of residence is treated as a group rather than doing it household by household.

In fact, my guess is that that is the way the vast majority of the States will deal with this. It would tend to get frightfully complicated otherwise.

Mr. DINGELL. If counsel would yield, is that an administratable way to deal with the question, gaslights?

Mr. PERRY. Mr. Chairman, it strikes me as an administratable way of doing it, but a way which tends to make a bit of a mockery of the statute. For example, whether or not extinguishing a gaslight poses a safety problem is likely to be highly specific to a given piece of property and wholesale exempting of subdivisions, let's say, or even groups of subdivisions would not strike me as being full and faithful administration of this act. It is a way of doing it, for sure.

Mr. DINGELL. Mr. Finnegan?

Mr. FINNEGAN. Has the Department done any research or looked into the possibility of having a mechanism for turning off the lights in the daylight so that they don't run all the time?

Mr. PERRY. There is, I am not quite certain; you better ask some of the gas company witnesses, but there is a mechanism on the

market which is essentially activated by an electric eye. I am not certain of that, but I believe it to be true. That strikes me as not being likely to be an inexpensive proposition.

Mr. FINNEGAN. Have the utilities done anything to suggest that that be used as an alternative?

Mr. PERRY. Not to my knowledge, no, sir.

Mr. FINNEGAN. In your testimony you talk about the cost data for retrofitting of the lights. What is the basis of that cost data?

Mr. PERRY. The \$70 basis is, frankly, a fellow on my staff who just did one. He went to Hechinger's and got the kit and did all the work. It cost him \$70. He happens to be a moderately skilled electrician so he didn't risk much in the process. The \$200 figure frankly is about a 3-year-old figure updated with the CPI.

Mr. FINNEGAN. Where did that come from?

Mr. PERRY. From a piece of engineering analysis done by DOE staff several years ago which was then field tested on a small number of contractors to make sure it was in the ball park.

Mr. FINNEGAN. It is not a nationwide figure as a pure estimate?

Mr. PERRY. No, sir, but if the equipment cost in the neighborhood of \$70 and the labor involved is upward of a half a day, it doesn't seem an unrealistic figure.

Mr. FINNEGAN. There has been some evidence presented by the companies that they don't know who the customers are. What information do you have?

Mr. PERRY. I find that rather difficult to believe because, among other things, usually gaslights have been installed from subdivisions pursuant to the gas company and the builder of the subdivision. There ought to be some record of that.

Plus, most people are billed for the consumption of gas in that gaslight. It is unmetered. The charge is usually hidden in the bill and usually on the order of \$5 a month.

Certainly, if those people are being charged, they are identified.

Mr. FINNEGAN. Have the companies suggested that that was a problem to you?

Mr. PERRY. Not to my knowledge, no.

Mr. FINNEGAN. What consultation have you had with any of the companies to try to get them into compliance with the law?

Mr. PERRY. We have had no consultation except through our attorneys on the Atlantic Gas Light suit, because in the vast majority of States, every State save one, it appears that the States are going to do this work for us. They are for sure in touch with the gas companies.

Mr. FINNEGAN. Are you getting reports that they are in fact getting the companies to comply?

Mr. PERRY. Yes, sir.

Mr. FINNEGAN. Are there any recalcitrant States or companies, as far as you know?

Mr. PERRY. There are a good many gas companies who are of course very concerned and upset about the entire prohibition, but I believe most States have taken the sort of superficially reasonable way out, as the chairman implied, and rather than dealing with a million homeowners one at a time, they have done it on a class action kind of basis, wholesale exemptions, and that is their way of coping with what would otherwise be a very difficult situation.

Mr. DINGELL. Is there any problem with regard to the States seeing to it that there are no new installations of gaslights?

Mr. PERRY. To my knowledge no problem at all.

Mr. DINGELL. That is going through, I assume, the building permit mechanism?

Mr. PERRY. Right.

Mr. DINGELL. Can you help me more than giving me a surmise on that? Can you address that from the standpoint of, yes, that is a part of the program, or you think that that is a part of the program or that might be a problem?

Mr. PERRY. I cannot do that this morning, but I will be able to once the annual reports are in.

Mr. DINGELL. I would like to have a rather clear statement for the record of what is being done by the States in that regard, what can be done by the States in that regard, what is being done by DOE to assure that the States carry forward this program, and we would appreciate very much having that included in the record.

Mr. FINNEGAN. In response to questions on that very point to the chairman back in February, Mrs. Rollins said there were 21 States that ERA believes have laws and regulations in effect regarding prohibition on outdoor gaslighting.

That was stated in your May 10 regulations. Your response was, no, it was based on your annual reports. It appears that a total of 32 States now have laws or regulations in effect.

That is fairly broad language and does not indicate what kind of review you made yourself to ascertain whether it is an actual statement.

What have you done since then to determine whether that is correct or not?

Mr. PERRY. What we have not done yet and not yet planned to do in fact is a State-by-State review of pertinent statute, State statute, and regulation, to form our own independent assessment of the effect of that. We have not done that yet.

Mr. FINNEGAN. Why not?

Mr. PERRY. The most straightforward answer I can give is that implies a great deal of work, and this has been treated as a very low-priority program.

Mr. FINNEGAN. How do you assure yourself that you are operating to comply with the law? I recognize that you are not too excited about it, but it is on the books. Now, what do you do? The law says there has to be a prohibition, you can delegate it to the States, and it also describes very carefully what your responsibility is relative to that delegation.

How does the Department assure itself that what they have done, that there is in fact an adequate delegation and that there is compliance?

Mr. PERRY. Counsel makes a valid point. In the first set of annual reports very little had been done; very little experience with the programs in the States and very little information in those reports, therefore.

This year in simply reviewing the reports themselves, we ought to be able to come up with a much more definitive statement of how that is working.

Mr. DINGELL. How soon do you anticipate that will be done?

Mr. PERRY. Reports are due in by January 1, and my guess is they will not all be in until the end of January. By March 1 we ought to have a definitive assessment.

Mr. DINGELL. Is it fair to say, you have indicated to the committee that you feel this is a program of relatively low-priority, are you telling us that it is your view that because it is a low priority item it ought not be enforced or it ought not be enforced in whole or it ought not be enforced at all or it ought to be enforced in a lackadaisical fashion?

What are you saying?

Mr. PERRY. We are, at least in my judgment, exercising our authorities under the statute, fulfilling our obligations under the statute.

One can never be absolutely certain, however enthusiastically that one enforces a program that we have taken care of everything. We are a good deal short of that in this program.

I do feel that we have done a minimally adequate job of carrying out this piece of the statute.

Mr. DINGELL. How many people work on this program?

Mr. PERRY. Total person year at the Federal level at this program at this point is still less than one person.

Mr. DINGELL. Less than one person working? What is the identity of that person?

Mr. PERRY. The individual involved is a gentleman by the name of Dr. Earl Bragden, who works inside one of my branches.

Mr. DINGELL. What is his position inside the Department?

Mr. PERRY. He is a staff person in my State operations branch. The branch chief spends somewhat of her time.

Mr. DINGELL. The Chair is going to defer further questions at this time.

Mr. Loeffler is here and the chairman, as a courtesy to him, recognizes him first for a statement and then for questions.

Mr. LOEFFLER. Thank you, Mr. Chairman.

I will not read my statement but ask unanimous consent it appear in the record at this point.

Mr. DINGELL. Without objection, that statement will appear at this point in the record.

[Mr. Loeffler's prepared statement follows:]

STATEMENT OF HON. TOM LOEFFLER

The Subcommittee is today considering regulations promulgated by the Department of Energy which would ban the use of natural gas for outdoor lighting for residences after January of 1982. This ban comes as a result of provisions of the Fuel Use Act which were enacted during a period of perceived shortages of domestic supplies of natural gas, and included additional restrictions on the use of natural gas for outdoor lighting purposes by municipalities and industrial users, which have already gone into effect. While the full effects of this ill-conceived measure will not be felt until 1982, I believe that we must examine this issue now to determine whether or not the costs of compliance outweigh the negligible benefits.

Mr. Chairman, the outdoor lighting ban will obviously impact heavily upon those individuals and communities who, for reasons of safety and personal reassurance, have installed gas lights in their homes and streets. Additionally, while the cost for converting these lights may be as high as \$300, the energy savings from such conversions is minimal. The Department of Energy estimates that 0.14 percent of all natural gas used in 1979 was utilized by outdoor lights. At a time when we are encouraging the use of domestic supplies of energy, we will not be accomplishing anything if we restrict the use of natural gas on one hand and encourage the use of greater amounts of electricity from non-domestic sources on the other.

While the regulations issued by the DOE allow for exemptions based on safety and cost reasons, the burden of proof remains on the individual consumer who, I feel sure, will be outraged by this arbitrary ban. Additionally, some states, including Texas, have refused responsibility for enforcing this ridiculous program, placing additional burdens on local, particularly small, communities.

I have cosponsored legislation, H.R. 4576 by Congressman Young of Missouri, which would amend the Act to permit local gas distribution companies to continue to provide service to residential customers for outdoor lighting fixtures installed prior to the date of enactment of the Fuel Use Act, while retaining the prohibition against the installation of new outdoor gas lights. I believe that this legislation is necessary, and I am hopeful that the Subcommittee will move expeditiously on the measure during the next Congress.

Thank you Mr. Chairman.

Mr. LOEFFLER. I thank the chairman for his courtesies.

As I came in late, the last thing that I had on my desk that I attended to was a note that a gentleman by the name of Mr. Dingell will serve as our full committee chairman next year, and publically I would like to say congratulations, and that we all look forward to working with you.

In looking at the gaslight situation, I have some questions that I would like to ask.

First, what is the Department of Energy's estimate with respect to the actual use of gas for outdoor lighting for residential purposes?

Mr. PERRY. Each gaslight consumes in the neighborhood of 18,000 cubic feet of gas a year. There is as of yet no plans for having an inventory of how many gaslights there are, but the best estimates that we can come up with is somewhere in the range of 2 to 4 million existing gaslights.

Mr. LOEFFLER. What would be the percentage of use on an annual basis?

Mr. PERRY. On the order of one-fifth of 1 percent.

Mr. LOEFFLER. An extremely minimal amount of gas to be used for those purposes. As I entered the hearing room and was listening to you respond to counsel's questions, you indicated that the cost of conversion could now be as high as \$500 per unit; is that correct?

Mr. PERRY. No, sir, on the order of \$200 with a payback of roughly 4½ years.

Mr. LOEFFLER. Explain how that payback would work.

Mr. PERRY. The analysis assumes conversion from gas to electricity. It assumes that instead of having a gaslight burning 8,760 hours a year, that is, full time, one would have a 75-watt electric bulb burning an average of 12 hours a day. The price of gas is on the order of \$3.50 and the price of electricity is 5 cents a kilowatt hour.

Mr. LOEFFLER. What would be the increase on a percentage basis of the price of that electricity?

Mr. PERRY. I don't have that on the tip of my tongue, Congressman. My guess is looking at the future the price of electricity would not be going up as fast as the price of gas. The payback would be even shorter.

Mr. LOEFFLER. Why are we concerned with this amount of natural gas when we have heard of the so-called gas bubble and we see an extremely large amount of natural gas domestically?

We are encouraging conversion from oil to coal and perhaps from oil to natural gas. Why should we be concerned about this demini-

mis amount when it would create such an immense intrusion upon residential consumers?

Mr. PERRY. First one has to look at the statistics the other way. The fact every 6.6 gaslights or so could heat a home is a rather startling figure, and had you been driving through a subdivision in Michigan three winters ago when industries were shutting down for lack of gas, and saw gaslights burning in the middle of the day, you would have to conclude something was wrong.

Mr. LOEFFLER. We will be driving through the State of Texas, and we have a rather large supply of natural gas, and we have street lights being lit by natural gas. We are looking at today's world, not yesterday's world, and with an adequate supply of natural gas, the bubble they talk about today, and not the past.

Mr. PERRY. I embrace the notion of getting the price right for energy, and letting the consumers and suppliers decide independently how much they want to use at what time.

The problem with gaslights, Congressman, is that they are not metered, and most people don't even understand that they are paying for the gas that is burning merrily at 2 o'clock in their front yard in the afternoon. The market can't work. Maybe we need a simple requirement that each gas company inform its consumers once a year what they are paying for that gas and it is costing them \$60.

Mr. LOEFFLER. It would appear to me, though, that an ordinary prudent individual would know that they are paying for the natural gas that lights the gaslight in front of their home.

Mr. PERRY. Sir, when I had one on my front lawn, I didn't even know that I was.

Mr. LOEFFLER. Let me move more toward the State of Texas, because I am a sponsor, along with the gentleman from Missouri, of H.R. 4576.

I am concerned that if this program goes forward, with the mechanics of it, I believe not only will Texans be outraged, in addition to people throughout the Nation, but they will be unduly put upon. They will have the burden of proof to say why they should be the recipients of the exemption.

I would like to hear your comments.

Mr. PERRY. I share your concern. I believe that gaslights do constitute a problem. They are not a huge problem, but they are in my judgment a significant problem. The existing statute and regulations for dealing with it, it seems to me, are a bit of overkill.

I am sorry the chairman has left, because I had an analogy that I specifically dreamed up this morning for him.

It seems to me that what we have here is a situation which is directly analogous to trying to put meat on a table for a very large family by hunting chipmunks with a 458-Winchester. In any given acre of Eastern woodland, there are enough chipmunks to fill a meat locker. But they are very small and hard to hunt, and the problem with the Winchester, if you fire it repeatedly, there is every bit as much danger of the shooter being killed as the shootee. It is a very powerful weapon, perfectly acceptable for charging water buffalo, but not for chipmunks.

Mr. LOEFFLER. As an avid hunter myself, the force of such fire power by a weapon as heavy as you mentioned would leave no

chipmunk once it was hit. What we may be doing is leaving the residential consumer in a position of having neither gas nor light generated from electricity.

Again, being more parochial, I would like to see if you have some specific answers as it would affect the State of Texas. What would be the cost to the State of Texas to comply with this particular provision or this regulation?

Mr. PERRY. I do not know, nor have I specifically asked for a cost estimate from the Railroad Commission in Texas. It is totally dependent on the approach they take.

If they chose to make something of a mockery of the statute by wholesale exemptions, the cost would be very, very trivial. If they chose to "do it right," the cost could be very, very expensive.

Mr. LOEFFLER. Are you confident that those States who have adopted the Federal program did so as a result of an honest belief in the program or because of a mistaken belief that they were under a statutory duty to adopt the program?

Mr. PERRY. I would say very few States were under the mistaken belief that they had to adopt it.

Most of them were shrewd enough to recognize the probability that if they didn't do it the Feds in Washington or the regional office would do it and were far more comfortable with the notion of doing it themselves, even if they had to spend additional State money for it.

Mr. LOEFFLER. I have no further questions, Mr. Chairman.

I might make an observation: It would appear to me that this is something that clearly will be considered in the next Congress, if we do not take action today. In light of the response from the administration officials today, it is something we should move rather quickly to obviate, because I doubt that we will achieve the stated goal.

The purpose that was behind these provisions of the Fuel Use Act upon its enactment has dissipated, and it is a program that in my best judgment is not needed.

I thank the chairman and thank you, Mr. Perry, for appearing before us.

Mr. OTTINGER [presiding]. The subcommittee, I think, at this point, will recess because of a vote on the suspension of the rules on House Resolution 829.

The subcommittee will resume its hearing as soon as we can return from the vote.

[Brief recess.]

Mr. DINGELL. The subcommittee will come to order.

The Chair advises that when we recessed, the Chair had recognized the gentleman from Illinois, Mr. Corcoran. The Chair recognizes the gentleman from Illinois.

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

I unfortunately had a conflict with another subcommittee hearing this morning and was unable to be here when Mr. Perry testified, but I will have an opportunity to read and evaluate his statement. And I know that a capable staff was here so I think we probably have as much information as we need at the moment from Mr. Perry. I appreciate the opportunity to at least acknowledge his presence here and we may get back in touch with you.

Mr. PERRY. Thank you.

Mr. DINGELL. The Chair recognizes counsel again.

Mr. FINNEGAN. Mr. Perry, in connection with Mr. Dingell's letter to Miss Rollins, he had raised a question about a number of regulation changes which were proposed in February of this year.

Have all of those changes been made and been finalized?

Mr. PERRY. Yes, sir. The final version of the proposed rule that Miss Rollins discussed with you previously was published, I think, on the 23d of May of this year.

Mr. DINGELL. When did you anticipate that rule will finally go into effect?

Mr. PERRY. It is now in effect.

Mr. DINGELL. Is it subject to any court challenge or anything of that sort?

Mr. PERRY. To my knowledge, no. But let me defer to counsel.

Mr. DINGELL. The counsel can respond.

Ms. ROWAN. Yes. The entire program has been challenged.

Mr. DINGELL. By who, and under what conditions?

Ms. ROWAN. Atlanta Gas Light Co., LeClede Gas, the American Gas Association, and Entex, Inc.

Mr. DINGELL. On what grounds have they challenged this?

Ms. ROWAN. There are numerous constitutional grounds, basically three areas: That Congress has exceeded the powers of interstate commerce and has delved into the intrastate area. There are challenges dealing with interference with the States in an area of the law, in commerce traditionally associated with the States and recognized in court precedents. Also, that the program essentially through the delegation—

Mr. DINGELL. The program what?

Ms. ROWAN. Excuse me. The program, through the delegation of authority, essentially results in the Federal Government having commandeered the resources, including personnel of the States to enforce the Federal program. And then there are also fifth amendment due process challenges. And that is going to the area that Mr. Perry discussed previously about the penalties assessed for violations would be on the utilities. And they are saying they are experiencing numerous problems in identifying the lights, in making sure that they are not reconnected.

And they are saying also that the entire program is so vague they don't know when they may be subject to an enforcement action.

The rules themselves, the content of the rules, as they now stand, is not directly challenged. We have been challenged for a lack of enforcement guidelines. But the content of the rules, not directly.

Mr. DINGELL. I see.

Would you submit a copy of the pleadings on this.

Ms. ROWAN. We have already, sir.

Mr. DINGELL. Thank you.

Well, I am reminded of the days when I used to practice law when we had a relatively modest case, we used to have extensive pleadings. I wonder if that obtains here.

The Chair recognizes counsel.

Mr. FINNEGAN. What is the status of the case at the present moment?

Ms. ROWAN. All the briefs have been filed, and both sides, the petitioners and the respondents, requested oral argument. That has been granted. The date for the argument has not yet been set because this is a nonpriority case. It is expected within 6 to 9 months.

Mr. FINNEGAN. When you say they challenged the lack of enforcement guidelines, can you expand on that, what you mean by that?

Ms. ROWAN. Yes, sir.

The petitioners now, and many of the commentators during the rulemaking proceeding, felt that the Federal Government was under a duty to give enforcement guidelines—let me give you an example of what a guideline might contain.

That if a gaslight were extinguished as a result of action by the utility, and it were later reconnected by the owner, and there was an enforcement action against the company on this ground, the company would not be liable.

It was felt that if ERA were to give guidelines of this nature, this would be very helpful because then the utilities would know that the programs in the States would not involve enforcement actions against them for activities that they felt they had no control over. And it has long been their contention that the act, by making them the center of attention, so to speak, putting the burden on them for seeing that the lights go out, is somewhat unfair to them. That in fact, if the Federal Government had wanted the lights out, the people who should be penalized if they are found on, is the user.

Mr. FINNEGAN. But they are the only ones that really can turn off the gas.

Ms. ROWAN. That is true. Well, I suppose one could turn the gas off. I don't know the technicalities. But I would say you are correct, yes, sir.

Mr. FINNEGAN. Mr. Perry?

Mr. PERRY. Most of the gaslights—well, again, speaking largely from personal experience—most of the gaslights do have a simple screw type valve on the bottom of the fixture, and any homeowner who can manipulate a screwdriver can turn that off.

Mr. FINNEGAN. But that leaves the gas in the fixture.

Mr. PERRY. The line is still live.

Mr. FINNEGAN. A dangerous situation.

Mr. PERRY. That is right. If someone were to change the valve to the open position again, there would then be free flow of gas out which could be a dangerous situation.

Mr. FINNEGAN. Have you done any surveys on the issue that you raised a few minutes ago or made a statement a few minutes ago about the extent to which these gaslights are or are not metered?

Mr. PERRY. We have not made a systematic survey, no, sir.

Mr. FINNEGAN. You just—

Mr. PERRY. I am advised by some of the gas industry people in the room that at least for their systems, all the gaslights are metered. It has or was at least standing practice with the local gas company here, as recently as 6 or 7 years ago, not to meter gaslights.

Mr. FINNEGAN. Could you obtain that information from the AGA or other organizations that might be able to get it through their companies?

Mr. PERRY. We could certainly try and would be willing to. They might not have it. But they could in turn poll their member distributors.

Mr. FINNEGAN. Could you try and provide that. It might be helpful to the committee to know what is going on.

In response to questions by the chairman, there was a contention that the lights are the personal property of the homeowner and that the companies didn't have access to the lights. Is that your understanding of the situation?

Mr. PERRY. Most of the legal research we have done indicates that the companies do have easement type access to the lights.

Mr. DINGELL. What is the law with regard to the appliances inside the home, natural gas appliances? And the meter? Does the company have access to that?

Mr. PERRY. The company has access to the meter but I do not believe they have access beyond the meter typically.

Mr. DINGELL. If a citizen refused the company access to a facility, the company would have the opportunity and the right I believe under the laws of the States to then turn off the gas to the individual that refused to cooperate with access to the facilities for safety maintenance or for access to the meters for purposes of billings.

Am I correct in that?

Mr. PERRY. I believe that is correct with respect to the meter. I believe that would be not correct with respect to major gas appliances within the house. The gaslight probably falls in a no man's gray land in between. I doubt that there is very much legal precedent on that question.

Mr. FINNEGAN. No further questions.

Mr. DINGELL. I would like to go through the amount of gas saved. We are told that 54 billion cubic feet per year of gas could be saved if all the gaslights were turned off; is that right?

Mr. PERRY. That is right. That is an estimate that is probably a trifle on the high side. You may have noted that it is higher than the figure Miss Rollins gave you in her letter.

Mr. DINGELL. What is the proper figure then?

Mr. PERRY. Because we don't have anything like an authoritative inventory of gaslights, it can only be an estimate. But I would estimate that it falls somewhere between roughly 30 billion cubic feet a year and 55 billion cubic feet a year.

Mr. DINGELL. Thirty to fifty-five is your estimate?

Mr. PERRY. Right.

Mr. DINGELL. All right.

Now, and that is enough—five of those gaslights would heat approximately one home; is that correct?

Mr. PERRY. 6.6 would heat one home.

Mr. DINGELL. So if we divided by—let's take the low figure—divided 30 by 6.6—that would heat approximately—

Mr. PERRY. Somewhere between 2 and 4 million gaslights are working. Say 3 million. It is in the hundreds of thousands.

Mr. DINGELL. So we divided 3 million, then—the division would be 3 million into—

Mr. PERRY. 6.6 into 3 million, I believe, Mr. Chairman.

Mr. DINGELL. So, 3 million into 30 billion would give us the number of feet saved for each.

Mr. PERRY. It is about 18 thousand cubic feet per year per gaslight.

Mr. DINGELL. How much?

Mr. PERRY. Excuse me; 18 thousand cubic feet per year per gaslight. 18,000 cubic feet.

Mr. DINGELL. What does that cost the home owner?

Mr. PERRY. On the order of \$60 a year, at present gas prices.

Mr. DINGELL. Now, as I understand it, we are importing how much gas from Canada and from Mexico?

Mr. PERRY. I cannot answer that. I don't know, sir.

Mr. DINGELL. Sir?

Mr. PERRY. I don't know the answer to that question, sir. It is substantial. And it is expensive.

Mr. DINGELL. Larger or less than the amount that we are burning in our gaslights?

Mr. PERRY. It must be larger. Substantially larger.

Mr. DINGELL. That is an interesting figure.

Mr. PERRY. If I could add something to that calculation—arguably in probably a majority of the cases of existing gaslights there is need for illumination from some source for safety or security purposes.

Mr. DINGELL. In some instances there is.

Mr. PERRY. I would say in a majority of instances, and the gas industry people can better attest to that than I, there is a need for replacement lighting of some sort. And assuming that is electricity, one then has to calculate the amount of primary energy that would go into the generation of that electricity and look at the fuel type. And one would find that the majority of gaslights tend to be located in areas where the majority of electricity is generated by burning gas. And the net savings of gas would be pretty small in that case.

Mr. DINGELL. I see.

Has there been any protest with regard to gaslights simply being forbidden for illumination purposes in the future? Has that been a subject of controversy?

Mr. PERRY. Not to my knowledge, no, sir.

Mr. DINGELL. The controversy has laid in the area of retrofit.

Mr. PERRY. Folks who had gaslights there when the act became law, yes. I think that is as much ease of administration as anything else.

Mr. DINGELL. Now, if we were to say—if I were to say that the controversy might be resolved by imposing a prohibition on retrofitting those lights through the building permit mechanism, would that be an acceptable end to the controversy that exists with regard to the administrative costs and burns on natural gas lighting?

Mr. PERRY. It would certainly be simpler administratively. I can only guess how the gas industry would react.

If I could add just a bit of an anecdote. I think the chairman and Mr. Finnegan are familiar with Columbia, Md., which is a large, new town up toward Baltimore. Fairly new, upper middle class, with a reputation of being a very progressive kind of community. The local civic association up there held a meeting focusing entirely on energy policy 2 months ago. And the No. 1 item on the agenda was section 402 of the Fuel Use Act.

The biggest concern of the people in Columbia, Md., was their gaslights.

Mr. DINGELL. What was the concern?

Mr. PERRY. They wanted to keep them, sir. And they were insistent that Hazel Rollins come up and talk to them at their meeting.

Mr. DINGELL. All right.

Now, the Chair recognizes Mr. Finnegan.

Mr. FINNEGAN. Just one question on the connection with the legislation.

As I understand paragraph 1 of the legislation, that would allow fixtures installed after the date of enactment of the Fuel Use Act, namely, November 9, 1978, to continue in use so long as they were installed before the date of enactment of this bill; is that correct?

Mr. PERRY. If they were installed before the date of enactment, that is right.

Mr. FINNEGAN. So you are not necessarily taking care—you are allowing those fixtures—those could be fixtures that could be installed today—those fixtures could be installed today and be grandfathered under this provision. Am I correct?

Mr. PERRY. Replacement fixtures, for ones that were there?

Mr. FINNEGAN. No. Any kind of fixtures, new or replacement, as I understand the amendment.

Mr. PERRY. Oh, H.R. 4576.

Mr. FINNEGAN. Yes.

Mr. PERRY. Yes. It is my understanding that the fixtures which were in existence on November 9, 1978, could forever get gas for those fixtures. That is my understanding of the effect of that amendment. I could be mistaken.

Mr. DINGELL. The duration of that particular fixture, or for the duration of the building to which the fixture was attached?

Mr. PERRY. That would be a question of interpretation that relates incidentally to the revision of our rule last spring. Because the original rule had been quite enthusiastic about section 402, and defined a gas fixture as not only that fixture but any constituent part which in effect prohibited a gas company from repairing an existing gaslight, it was argued persuasively to us that that was a trifle unreasonable, and that gas companies ought to be allowed to repair existing fixtures which means that they could keep replacing parts until hell freezes over and keep the fixture operating.

Mr. DINGELL. Let me ask you a different question.

I have just figured that we—you figure there are 3 million gaslights and each one would use enough gas to heat—6.6 of them would use enough gas to heat one home?

Mr. PERRY. That is correct.

Mr. DINGELL. Making that division, I come down with the figure that gaslights in this country burn enough gas to heat 454,545 homes.

Mr. PERRY. That sounds about right.

Mr. DINGELL. So the figure is not exactly trivial?

Mr. PERRY. In the aggregate, it is not. I would submit that on the margin that most gas companies would rather use that gas to heat homes than for outdoor gaslights. But that is new installations only.

Mr. DINGELL. It doesn't seem like bad sense.

Any further questions?

Mr. FINNEGAN. No.

Mr. DINGELL. The committee thanks you. But before you are excused, Mr. Bienstock has a question.

Mr. BIENSTOCK. Thank you, Mr. Chairman.

Mr. Perry, do you have an estimate of how much it would cost the ratepayers of Texas to convert the outdoor gas lamps that they have there? At an estimate of \$200 for a conversion?

Mr. PERRY. Not only do I not have that, but I don't have a credible number for how many gaslights there are in Texas. It would be fairly easy to get those, and from that fairly easy to calculate the total cost. But even the 2 to 4 million figure that we use nationally is pretty much a ball park estimate. Nobody has ever bothered to inventory gaslights. The last time I looked, the Census Bureau was not asking for that data, nor have we.

Mr. BIENSTOCK. You don't know if it is obtainable?

Mr. PERRY. I would believe it would be obtainable from individual gas companies, one at a time. I doubt that any State agency in Texas would have that data. I am sure Entex would for its customers, for example.

Mr. BIENSTOCK. OK.

Thank you, Mr. Chairman.

Mr. DINGELL. Mr. Perry, the committee thanks you both for being with us. We thank you for your assistance.

Mr. PERRY. Thank you, Mr. Chairman.

Mr. DINGELL. The Chair advises that our next witnesses will appear as a panel.

Mr. Chuck Wood, manager of commercial relations, National Fuel Gas Co., Buffalo, N.Y.; Mr. Maurey Halsey, vice president of Government relations, Northern Illinois Gas Co.; Mr. Tom D. Stephens, assistant general counsel, Pioneer Natural Gas, Amarillo, Tex.

Gentlemen, if you will come forward and sit at the witness table and identify yourself fully for the purposes of the record, we will be pleased to receive your statement.

If you would start on your left and my right, for the assistance of the reporter, and identify yourselves.

Gentlemen, we thank you all for being here. We will recognize first, then, Mr. Stephens; then Mr. Wood, and finally Mr. Halsey.

Gentlemen, proceed.

STATEMENTS OF TOM D. STEPHENS, ASSISTANT GENERAL COUNSEL, PIONEER NATURAL GAS CO.; CHARLES A. WOOD, MANAGER, COMMUNITY AFFAIRS, NATIONAL FUEL GAS CO.; AND MAURICE E. HALSEY, VICE PRESIDENT, NORTHERN ILLINOIS GAS CO.

Mr. STEPHENS. Thank you, Mr. Chairman.

As I previously stated, I am Tom D. Stephens. I am assistant general counsel for Pioneer Natural Gas Co., of Amarillo, Tex.

We are grateful for the opportunity to participate in these hearings. Unfortunately, due to the short notice, the officers of our company were unable to attend. However, they are fully aware of this testimony and concur with my comments.

Pioneer is a natural gas utility which services a substantial portion of the Texas Panhandle—our service area runs approximately 400 miles north-south and 100 miles east-west, an area about the size of the State of Ohio. The population of this area is slightly less than 1 million and we serve approximately 269,000 gas customers of all classes.

Included in our 66 municipalities are the major cities of Amarillo, Lubbock, Midland, and Odessa. At this time approximately 15,000 to 20,000 of our residential customers have natural gas outdoor lighting.

I am here today to explain the difficulties Pioneer has encountered with section 402 of the Fuel Use Act (FUA) and why in our opinion H.R. 4576 is so badly needed as an amendment to the FUA.

Section 402 of the act statutorily provides the proper State authority to enforce this act. However, Texas gas utility regulation is probably unique in the Nation because of the split of statutory authority between the municipalities and the Railroad Commission. This dual authority would be difficult enough to deal with under section 402 even if the Railroad Commission had not refused to accept the Secretary's delegation of enforcement.

Now with no State enforcement agency to administer the gaslight regulations, Pioneer is faced with a tremendous administrative burden in obeying a Federal law which we feel is of questionable value in conserving the Nation's energy supplies. For example, according to previous DOE estimates there are approximately 1.5 million existing residential outdoor gaslights which account for only 0.14 percent of annual national natural gas use.

I am troubled by the theory that the gas companies themselves are in the best position to enforce gaslight regulations. I know for our company such questions arise as who will give Pioneer the authority to force a customer without an exemption to turn off his light? I doubt that our cities would—even if they could be convinced of their authority, and I question whether or not ERA would want to take on that burden in the rural areas of our system.

Moreover, does Pioneer face penalties if it cannot convince a customer to turn off his gaslight? Would the Federal Government fine the customer if he refused? We don't know the answers to these questions.

Pioneer has attempted to obtain exemptions for all commercial gaslight customers on its system prior to the deadline in the Federal act. The in-city customer exemptions were approved by blanket ordinances we obtained from our municipalities. At the same time, we obtained affidavits from our rural commercial customers and forwarded those, along with an exemption request, to the Railroad Commission.

Shortly thereafter the Railroad Commission elected to decline their delegation of authority and returned the rural affidavits and

exemption request to us without taking any action. Thus, we are in the position of having exemptions approved for our in-city commercial gaslight customers but no such approval for the rural commercial customers.

This will become even more of a burden as we approach the deadline on residential gaslights. Undoubtedly we will be able to assist our in-city customers in obtaining exemptions as we did the commercial customers. However, we are at a loss as to what to do with rural residential.

We chose the route of obtaining exemptions for our existing commercial gaslight customers because that appeared to be the only way Pioneer itself could legally enforce the Federal statute. By and large, gaslighting is not a separately metered and piped service and we would not simply turn off the gas flowing to those lights without the owner's permission. Furthermore, I know of no statutory authority which would permit Pioneer to forcibly enter a customer's property and remove the gaslight, and I can assure you that our cities would not have agreed to such a tactic. Thus, we obtained exemption requests from those customers who wished to keep their gaslights and our municipalities agreed to invoke their local authority to approve those requests.

In the case of commercial gaslights, the exemption process was relatively simple because we were dealing with less than 300 customers. However, we estimate that Pioneer serves approximately 20,000 residential gaslight users, 16,000 in our cities and 4,000 in our rural areas. Thus, our personal enforcement burden will become even greater as the act's deadline on residential gaslighting approaches. This burden is compounded by our uncertainty over how the act and ERA's regulations are to be enforced, particularly in view of the Railroad Commission's position.

We have surveyed our customers and the cities we serve, and we have found a great deal of resentment at what they perceive as an unwarranted Federal intrusion into their private affairs. Our customers want to make their own choice about their gaslights, and our city councils do not wish to force such a decision on their citizens.

In addition, gaslights on our system are used primarily for security purposes, particularly by elderly residents. Because many of our towns are small and have limited financial resources, they have chosen over the years to rely on this residential lighting rather than installing large municipal street lighting.

If our customers were required to turn off or remove their gaslights and could not afford to convert to electric lighting, they would suffer. Equally important, they would face the possibility of increased tax burdens if their cities were then required to install additional street lighting to replace the darkened yard lights.

Of course, we are not suggesting that gaslights absolutely cannot be converted or turned off, or that in a few instances in other parts of the country some minor amount of natural gas would not be saved in the process. However, in our area electricity is still produced to a great extent from natural gas which would probably mean a net increase in gas consumption if gaslights were converted to electricity.

When you consider this latter fact, together with the burdens gaslight regulation would place on us and our residential customers, it seems clear that section 402 of the act—however well intended its goals in protecting the Nation's interests—simply cannot be justified as an energy conservation measure.

Let me give you another problem. The Public Utility Regulatory Policies Act of 1978, and existing Texas regulation, would prohibit Pioneer from cutting off service to elderly or infirm consumers in severe weather. Legislative history of section 402 of FUA indicates that Congress believes utility companies can enforce the gaslight ban by cutting off service to customers who refuse to comply. How can gas companies reconcile these two laws? Do we endanger the health of a residential user with a gaslight by cutting off service because he has not complied with section 402? Keep in mind that the residential gaslight ban takes effect on January 1, 1982. I can assure you that at least in the Texas Panhandle, we will have plenty of cold weather around that date to make such a dilemma very possible for Pioneer.

The prohibition on the use of natural gas for outdoor lighting was a response to the shortages of natural gas in the winters of 1976-77 and 1977-78. The natural gas supply situation is significantly improved today and is expected to continue to improve in the foreseeable future.

I would like to also point out that section 402(a) prohibits the installation of new outdoor lighting fixtures beginning on the date of enactment of this act—November 9, 1978. As a result of this and inevitably increasing utility costs, outdoor lighting will be phased out through attrition of the existing fixtures.

It is for all of the above reasons that our company strongly supports H.R. 4576, a bill to permit local distribution companies to provide natural gas service to residential customers for use in outdoor gaslights installed prior to the date of enactment of the Powerplant and Industrial Fuel Use Act of 1978 as introduced by Representative Robert A. Young.

Again, I thank you for the opportunity to present our comments and welcome any questions you may have.

Mr. DINGELL. Mr. Stephens, the committee thanks you.

Mr. Wood?

STATEMENT OF CHARLES A. WOOD

Mr. WOOD. Mr. Chairman, my name is Charles A. Wood and I am manager of community affairs for National Fuel Gas Co., a utility that serves approximately 675,000 customers in western New York, northwestern Pennsylvania, and a small part of eastern Ohio.

May I begin by thanking you for giving me the opportunity to address this committee on the 1978 Fuel Use Act which prohibits gas utilities from providing gas to residential or municipally owned gaslights after January 1, 1982.

In discussing this issue, I believe that I represent not only the 18,000 residential customers and 11 municipalities that are presently using 21,000 gaslights on the National Fuel lines, but also all residential and municipal gaslight users throughout the country, including many of your constituents.

In 1978 when the Fuel Use Act was enacted, a gas shortage was perceived by Congress which led them to establish a timetable for the removal of gaslights:

One. Commercial and industrial customers were allowed to receive gas until November 5, 1979.

Two. Municipal and residential customers were allowed to receive gas until January 1, 1982.

Congress gave the Secretary of Energy the power to delegate his authority and responsibility to implement this regulation over to the State public utility commissions. Accordingly, on October 12, 1979, the New York State Public Service Commission sent a letter to National Fuel officially informing the company of the ban on commercial and industrial gaslights. The company had until October 25 to respond and file compliance tariffs.

Although this letter from the public service commission did not specify how the utility was to notify its customers, National Fuel decided to contact each customer in person. Company employees hand delivered to each customer a copy of the appropriate section of the Fuel Use Act as well as a letter which explained the ban on gaslights and the provision wherein they could apply to the public service commission for an exemption.

Fifteen of National Fuel's commercial customers filed for exemptions, all of which were granted. The most common reasons given were substantial cost or the alteration of an historic site caused by conversion. For example, one of the company's customers, the Gas Light Motor Inn of Jamestown, N.Y., has 32 gaslights in a black top area, some of which are set in concrete blocks. The cost of conversion would have been approximately \$20,000, a high figure for a small motel. Fortunately, they received an exemption for substantial cost.

Because of the fact that only 265 customers were involved and National Fuel had the wherewithal to personally contact these customers, the company did just that. This was certainly an expensive way to handle the problem but the only way it could be certain that the customers affected clearly understood the situation and would be treated fairly. For National Fuel to provide this type of service to its 18,000 gaslight users would be virtually impossible. It is also highly unlikely that the company will receive a similar mandate from the public service commission inasmuch as the service commission shows great concern for the welfare of utility customers when it comes to terminating service for any reason.

As I mentioned earlier, National Fuel is aware that the Fuel Use Act states that service to municipal and residential gaslights must be terminated by January 1, 1982. The problems of customer cost and inconvenience already experienced in complying with the law in the company's small industrial and commercial sector would be multiplied and magnified if National Fuel was required to implement the ban on our residential and municipal customers. This is due to the greater number of customers involved and the more diversified geographic area. Inasmuch as residential gaslights are distributed throughout our service area, some in front yards and some in backyards, it would be a monumental task for National Fuel or any utility to locate them all.

Residential and municipal gaslights serve a real purpose in that they are primarily used for safety or protection of property. Their decorative quality is secondary in most instances. Their replacement would therefore be essential. Estimates for replacing a residential gaslight in our area are in excess of \$250. In order to accommodate an electrical fixture, the former gaslight owner might have to hire an electrician to extensively rewire his residence and meet the proper building codes and proper fire codes. This is a severe imposition on our customers, many of whom live on fixed incomes. Our customers who have purchased these lights at some expense did so with the understanding that they would be able to use them until such time as they were worn out.

The cost of replacing municipal street lights is even more alarming. An estimated cost of replacing 24 municipal gaslights in the town of Amherst with 100-watt mercury vapor electric lights on 10 foot poles is \$14,200. The town of Amherst would face a severe financial burden if it had to replace all of its 1,286 gaslights. This figure does not include the cost of all the complications which a utility must bear to replace municipal gaslights. First, the utility must dig underground to remove and plug the gasline at the main, fill up the hole, reseed, resod, and reapply concrete or blacktop, if required. Many times gas mains are as much as 6 feet below the surface and under private property.

Some of the municipalities on the National Fuel lines that currently have gaslights have expressed interest in participating in any program wherein they could obtain an exemption from the Fuel Use Act and continue to use their gaslights. However, due to the spontaniety of this hearing, they were unable to be here. I think I speak for them, however.

In doing this, I respectfully ask this committee to act positively on H.R. 4576, introduced to the 96th Congress by Representative Robert A. Young. This measure would repeal that section of the Fuel Use Act which prohibits utilities from selling gas for use in outdoor lights after January 1982. We support this bill for the following reasons:

First. Implementation of the act is too costly for customers or utilities to bear in these inflationary times.

Second. The inconveniences which utilities would be required to impose upon their residential and municipal customers are unfair and would unnecessarily hinder customer relations.

Third. The safety of gaslight customers would be impaired. Gaslights are not subject to supply failure due to windstorms and as we Buffalo residents can attest, they are more visible in snowstorms. Also, with the lights in continual operation there is no indication whether the resident is at home; and

Fourth. The total consumption of gas by gaslights within the National Fuel service area is less than two-tenths of 1 percent.

Clearly, the total consumption of all gaslights in the United States is too minimal to adversely affect the improved gas supply picture of our Nation.

I thank you.

Mr. DINGELL. Mr. Wood, the committee thanks you for your very helpful statement.

Mr. Halsey?

STATEMENT OF MAURICE E. HALSEY

Mr. HALSEY. Thank you, Mr. Chairman.

I am representing Northern Illinois Gas, which I will refer to as NI-Gas.

NI-Gas provides natural gas service in the State of Illinois for over 1,400,000 customers, of whom 1,300,000 are residential.

NI-Gas supports H.R. 4576, a bill which would amend the Power-plant and Industrial Fuel Use Act. NI-Gas believes that the prohibition on the sale of gas for use in existing outdoor lighting is unnecessary and unwarranted when considering the questionable benefits that might be achieved and the costs and aggravation that would be imposed upon our customers.

I would like to share with you NI-Gas's experience with gaslights in our service territory over the past 10 years with the hope that you will recognize that this Federal statutory prohibition is unnecessary in order to accomplish the objectives intended.

During the 1960's, NI-Gas promoted the sale and installation of gaslights in our service territory. In the early 1970's when the gas supply problem began to emerge, we phased out our marketing efforts and completely eliminated any promotion or endorsement of the sale of gaslights early in 1973.

In April of 1977, the Illinois Commerce Commission, in response to the deteriorating natural gas supply situation, adopted a general order prohibiting the sale or installation of any new gaslights. The order, which became effective on October 15, 1977, makes no reference whatsoever to existing gaslights. NI-Gas adopted procedures to be in full compliance with the Illinois Commerce Commission order.

Commencing in 1973-74, NI-Gas actively promoted various conservation-oriented services for our customers as well as conducting ongoing general communications advising customers on conservation techniques. Concurrent with these efforts, we were phasing out various free or below-cost services and/or materials for gaslights.

For example, until the mid-1970's, NI-Gas had traditionally provided its gaslight customers with free replacement mantles as well as free maintenance service at the customer's home. In the early 1970's, we started charging for the service call at the customer's home and in 1975-76 we began charging for the replacement mantles.

The gas for all lights in NI-Gas' service territory is metered with the exception of that utilized for residential street lighting such as in a subdivision. The cost of the gas to operate the lights has rapidly risen. For example, in the late 1960's, the average gaslight cost \$18 to \$20 per year to operate at prevailing NI-Gas rates. Currently, that cost is approximately \$65 to \$75.

As a result of these developments, the number of lights remaining in service on our system has steadily declined. This has occurred without Federal statutory requirements being imposed upon NI-Gas or upon our customers. In 1973 there were approximately 136,000 gaslights installed and operating in our territory. In 1977 that figure was 50,700 and by the end of 1978 it was 38,200.

Therefore, NI-Gas experienced a reduction of almost 100,000 gaslights on our system strictly through voluntary action by those individuals who had made the investment in the first place and

now were making their own decision as to the cost/benefit associated with their continued use. It is unlikely that any of this attrition was due to a Federal statute signed into law on November 9, 1978.

In November of 1979, NI-Gas, in compliance with the prohibition on commercial and industrial gaslights, communicated directly with all of our 128,000 commercial and industrial customers advising them of the prohibition of service to such lights effective November 9, 1979.

As a result of this action, and through continued voluntary attrition, the number of gaslights remaining on our lines as of November 4, 1980, is approximately 31,000. The amount of gas delivered annually for gaslights has decreased from an estimated 0.53 percent of our total annual sendout in 1973 to the current level of approximately 0.11 percent of our total annual sendout for those 31,000 lights remaining.

As a further illustration of the questionable benefit associated with this Federal action, we can say with certainty that if the prohibition is enforced to the ultimate, that the remaining 31,000 lights will not be totally extinguished. Some of the remaining lights will most assuredly qualify under the exemption provisions. Four of the 34 requests to the Illinois Commerce Commission for exemption under the Federal statute, as of this date, have been granted. All four of the approved exemptions were multiple light installations for subdivisions or residential street lighting service.

I am told of the other 30 pending applications for exemption, these have been deferred until the residential prohibition goes into effect. These gaslights provide the only safety and security lighting for the subdivisions. All such subdivision installations totalling 10 or more lights are served on an unmetered basis. There are currently over 2,300 gaslights being served under this arrangement.

For a period of over 6 years, I lived in such a subdivision in Illinois and served on the homeowners' association. This development has 100 gaslights providing the only street lighting for over 400 homes. I can personally attest that to replace these gaslights with electric street lights would impose a severe economic hardship on that residential development and obviously the Illinois Commerce Commission agreed because that is one of the subdivisions that has been granted an exemption.

While we are unable to give you specific numbers, NI-Gas has already experienced an increasing number of customer complaints in anticipation of the January 1, 1982, prohibition. Again, from personal experience I can attest that many individual residential lights were installed on the basis of safety and security needs as opposed to an ornamental or decorative function. NI-Gas is certificated by the Illinois Commerce Commission to render service to our customers. We are prohibited from discontinuing service to residential customers during specific seasons of the year and under certain conditions and I would add also for nonpayment during those periods.

It is unclear at this time as to what legal problems will be experienced if we are forced to discontinue service to customers who refuse to voluntarily remove their gaslights.

In summary, when the Powerplant and Industrial Fuel Use Act was being debated in 1978, the severity of the gas supply situation

and the amount of gas being utilized for decorative gas lighting may have justified the prohibition of such use. I have tried to illustrate through NI-Gas' actual experience that Federal action is unnecessary and unwarranted in view of current and foreseeable circumstances and the experience achieved. I don't mean to appear flippant, but it would seem to be much ado about very little.

I would sincerely hope that the Congress would review this Federal statute and take the action required to remove this intrusion into our businesses and to eliminate this confiscatory action against our customers and your constituents.

Thank you for this opportunity. I welcome your questions.

Mr. DINGELL. Gentlemen, you have made a very persuasive case.

Let me try and find the areas of your specific concern and then let me try and find areas of my specific concerns, and then let us try and address this question of how this matter best be handled.

Your concern is not with a prohibition in the future against installation of natural gas burning lights, is it?

Mr. HALSEY. You mean new installations, Mr. Chairman?

Mr. DINGELL. New installations, that is correct.

Mr. HALSEY. That would not be our objection, that is right. We would not object to that.

Mr. DINGELL. Gentlemen, his machine doesn't show nods. You have to say yes or no.

Mr. WOOD. We would find no objection with that.

Mr. DINGELL. Mr. Stephens?

Mr. STEPHENS. That is not our purpose either.

Mr. DINGELL. Your concern is with regard to the phaseout requirements; is that right?

Mr. STEPHENS. Yes.

Mr. WOOD. That is right.

Mr. HALSEY. That is correct.

Mr. DINGELL. Do you believe this is generally the attitude of the industry as a whole?

Mr. WOOD. I believe it is, yes.

Mr. HALSEY. My experience from talking to other members of the industry would indicate they are in agreement.

Mr. DINGELL. Now, gentlemen, the next question is, do you have a feeling that the industry would object to having a notification on the monthly billing informing the consumer of the cost of his gaslight? I don't mean the metered cost. I mean simply the estimated cost of keeping a gaslight in the particular area in which the consumer desired. Would that be a source of problem to the companies?

Mr. HALSEY. Well, Mr. Chairman, several times this morning, particularly during the DOE witnesses remarks, I believe they were taking the assumption that most gaslights are being served on an unmetered basis. And that is not true in my company's case, nor do I believe it is true in the other cases here.

Mr. DINGELL. You indicate that you meter these separately or meter them as a part of the overall metering to the customer.

Mr. HALSEY. We meter them as a part of the overall meter.

Mr. DINGELL. I never made the assumption they are unmetered. But they are not separately metered. They are metered as part of the overall meter. Am I correct?

Mr. WOOD. That is correct.

Mr. STEPHENS. That is correct.

Mr. HALSEY. That is correct.

Mr. DINGELL. Well, would there be objection to simply identifying the estimated cost of that particular service as part of the monthly billings so the consumer could make a rational judgment as to the cost?

Mr. WOOD. There might not be an objection. We could have some problems mechanical with putting a literal on the bill which would indicate this.

Mr. DINGELL. How about requiring it not less than once a year?

Mr. HALSEY. Mr. Chairman, I cannot say for certain that it is once a year, but it is approximately once a year, in our bill enclosures we inform our customers of how they may read their own meter and calculate their own bill, if they wish. We also provide them with estimated operating costs for all of the common household appliances, including gaslights.

Mr. DINGELL. That is rather enlightened company policy. Is that general policy within the industry?

Mr. HALSEY. I cannot answer that for you.

Mr. WOOD. We do not do that on a regular basis. We do have—that information is available to our customers but it is not mailed to them on a regular basis.

Mr. STEPHENS. That is the same with us. We do have that information available, but it is not sent out on a regular basis.

I would like to address one part of that—as far as putting it on the bill. We would have some problems with our State regulations in changing the bill form. But if you are talking about bill inserts—

Mr. DINGELL. Supposing you did it as an insert in the bill. Is that a problem?

Mr. STEPHENS. I don't think so.

Mr. DINGELL. Would the companies object to that?

Mr. STEPHENS. I don't believe ours would.

Mr. DINGELL. I am going to yield to my good friend, Mr. Corcoran. There is a very definite reason I am asking these questions, which may or may not be apparent at this time.

Mr. Corcoran?

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

Just to follow up that point, and then I have a couple of other questions. In the testimony of Mr. Halsey, as I recall you discussed in some detail the attempts that had been made in the last 10 years or so to educate your customers about the conservation measures that they could take. I think that along with conservation, of course, goes the cost because it generally triggers conservation responses. So I think the committee's concern would be whether or not we could isolate on the monthly bill or at some regular basis the cost to the customer of that outdoor natural gaslight.

And what we really would like to know is, in your evaluation of that requirement, if the Congress were to take action which would make that a requirement for the future in dealing with this section of the Fuel Use Act, would that be a major difficulty for any of the panelists?

Mr. HALSEY. In our case, Congressman Corcoran, it would pose no difficulty as long as we could do it through a bill enclosure by providing an estimated only operating cost for a gaslight. It would give us a problem if we were required to notify the individual customer of what his specific gaslight or gaslights were costing him to operate.

Mr. CORCORAN. And do I understand correctly that the problem there would be you would have to have a separate meter for the outdoor gaslights. Is that the difficulty?

Mr. HALSEY. Yes. And as well, if you recall I mentioned that we estimate that we now have remaining 31,000 gaslights on our lines, and that is spread among 1,425,000 customers. So, we cannot, through our records, identify specifically the individual residential customers who have gaslights on their system.

Mr. DINGELL. Would the gentleman yield?

I think you are pursuing a very useful point. Could Mr. Wood and Mr. Stephens, could you give us an idea of the numbers and the movement up or down in terms of consumer use of gaslights in your areas?

Has it remained constant, gone up or down?

Mr. WOOD. Approximately 18,000 gaslights are on our lines. That number has gone down. Of those lights that are on our lines, as you drive around the streets, a number of them have already been turned off. We do observe that.

To give you an exact figure on that, I don't know.

Mr. DINGELL. Can you give us an estimate? Just horseback.

Mr. WOOD. This would certainly be a horseback estimate. I would say approximately 10 to 15 percent of these are already turned off.

Mr. DINGELL. And the decline in the number of these is of what magnitude?

Mr. WOOD. That would be a very difficult figure for me to give you or project.

Mr. DINGELL. Give us again a horseback estimate.

Mr. WOOD. This is certainly a very wild guess. They may be declining at the rate of 500 a year. That is just a guess though. I really—that will accelerate as time goes on because the lights, as they are in a longer period of time, will wear out naturally.

Mr. DINGELL. And people will be aware of the cost.

Mr. WOOD. That is right.

Mr. STEPHENS. Mr. Dingell, we experienced a number of gaslight turnoffs during the era of the oil embargo in 1973. A number of those have stayed off.

Mr. DINGELL. Those are just done by citizens acting out of a sense of patriotic duty.

Mr. STEPHENS. Right. Our estimate on our system right now, as I said in my testimony, is between 15,000 and 20,000 remaining gaslights. I cannot give you an estimate at this time as to the rate of decline of those.

Mr. DINGELL. Is there a decline?

Mr. STEPHENS. Yes.

Mr. DINGELL. Is it significant?

Mr. STEPHENS. As people have found out about this act through our information that we have provided our customers, and as rates go up, people are going to stop using their lights.

Mr. DINGELL. Gentlemen—I thank my colleague for yielding. Just for our information though, it is your view that the decline in the number of these lights is related to what circumstances? You said, Mr. Halsey, it was not related to the statute here. Am I to assume it is related to cost?

Mr. HALSEY. Mr. Chairman, I believe it is related to a number of factors, cost probably being the most important. I think there is a fairly good awareness among the citizens of the United States that we do have a severe energy problem and I think those people who had installed a gaslight for perhaps a predominantly decorative or ornamental function were pretty quick to see the wisdom of discontinuing use of that light.

As I said also in my testimony, we previously, in the late sixties, up until the very early seventies, provided a great deal of free service to those lights.

Mr. DINGELL. Has that practice—

Mr. HALSEY. That has been discontinued and there is a correlation between all of those events.

As I mentioned, we had an attrition of over 100,000 lights on our lines from 1968 or 1973 actually until the end of 1978, and I find it very difficult to believe that the Federal statute had anything to do with that attrition.

Mr. DINGELL. I am incapable of quarreling with you on that point.

Mr. Wood, do you have a comment on the question?

Mr. WOOD. I think I would agree with the statement just given, though probably the primary cause for the decline in the number of gaslights in use in our area would be price. There would be—the statement that I mentioned earlier—just normal attrition and wearing out of a gaslight, and when people replace them they would go to some other source.

Mr. DINGELL. Mr. Stephens, your comments on the point.

Mr. STEPHENS. I would agree with that. I think on our system there will always be a percentage of people who for safety reasons will choose to keep their gaslight. They will make that economic decision, that they feel safer with the light and are willing to pay the cost.

But, yes, I do agree with what they said concerning the major factors in the decline.

Mr. DINGELL. I apologize to my friend and I thank him.

Mr. CORCORAN. Thank you, Mr. Chairman.

I just want to be clear on this point. I think we understand so far from the discussion that cost is very important, but the particular concern that we have at the moment is, would it be possible for the gas companies to notify on some basis of frequency their customers who still have the outdoor gaslights, as to the estimated cost of those gaslights perhaps on a monthly or yearly basis?

Do you have mechanically and administratively the capacity to provide that kind of information to the customer?

Mr. WOOD. We could notify all of our customers of that, naturally. But to pick out the particular gaslight customer and notify him specifically without notifying all of the customers, we would not have the expertise to do that.

Mr. CORCORAN. Why not?

Mr. WOOD. We do not have any figures that would tell us what customers have gaslights and what customers do not have gaslights.

Mr. DINGELL. Would the gentleman yield?

You do have meter readers to go around and identify them as a part of that round.

Mr. WOOD. Well, that is right. I suppose a meter reader could. However, not all gaslights are within the view of the meter. Many gaslights in our area at least are in the backyards; they are in different locations, so it would be entirely possible for a meter reader to miss a gaslight.

Mr. DINGELL. So if we were to require simply your best effort in this particular, or permit you to circularize your entire customer-ship with some kind of an insert based on a periodic basis, I think we would accomplish our end.

Am I correct on that?

Mr. WOOD. Yes. We would have the ability to circulate to all of our customers. In doing that, there would be no harm done. It would just send the other customers the same type of notification you are sending to your gaslight customer.

Mr. DINGELL. I see. Would this be acceptable? Would the kind of approach that Mr. Corcoran and I are addressing with you be acceptable as an alternative to the requirements of section 402? I am sorry—Mr. Stephens.

Mr. STEPHENS. As long as the requirements were not too specific about how you give the notice. For example, I am advised by one of my friends in the room today from another gas company in Texas that they use postcard type billings.

Mr. DINGELL. It would require a small statement on the bottom of the card.

Mr. STEPHENS. Mechanically they can do it. What I am saying is, as long as we are not confined too narrowly in the mechanical way—

Mr. DINGELL. I understand it needs a rational approach.

The Chair again thanks my friend.

Mr. CORCORAN. I just have a couple of questions.

I think I have a pretty clear understanding of what the response would be for the individual distributors if there were this kind of a requirement. I appreciate the help of the panel on that point.

But, just in general, on the act, Mr. Stephens, I want to clarify something in your statement on page 4. You talk about an estimated 20,000 residential gaslight users, 16,000 of whom would be in the cities, in your service territory, and 4,000 of whom would be in the rural areas.

Now, you also talk about the gaslights in your system being used for security purposes, primarily for the elderly and infirm. You talk about the point that there are a number of your towns that are small and that they use the gaslights for security purposes rather than having a municipal program of street lights and whatever.

Therefore, the question is, with respect to these small towns, do they relate to the 4,000 customers you are talking about or do they relate to the 16,000 estimated customers you are talking about?

Mr. STEPHENS. It is the 16,000.

Mr. CORCORAN. It would be the larger number.

Mr. STEPHENS. Yes. The 4,000 are people living outside of our cities and towns in the rural areas.

Mr. CORCORAN. I see.

One other question I have, just in general, for the panel.

This relates to this issue of the right that a company would have under the likely development of the law should it go into effect, or should it take effect with respect to the prohibition in January of 1982—there is the question of how do you enforce it? Part of the difficulty that has been raised is the problem that the company would have in going to a customer who has not been cooperating with the requirement.

The issue is, do you have an easement, for instance, in the case of any gas facility or fixture, Mr. Halsey—do you have an easement right so that you could go to the property and cut off the gas in that particular way or not?

Mr. HALSEY. No, Congressman, we do not on a residential service have an easement. When the customer requests service, that provides us with access, by the fact that he requested service from us. That provides access on his property to our facilities. That is in our terms and conditions for rendering service.

Mr. CORCORAN. That would be the meter.

Mr. HALSEY. Up to the meter. On individual residential gaslights, they are connected beyond the meter. That is his personal property. We have absolutely no legal right to that device without his permission.

So it definitely does present a severe legal problem for us.

Mr. CORCORAN. Mr. Wood, would that be true for your company?

Mr. WOOD. That is very true. Our situation is identical.

We have a right to the service up to and including the meter. Beyond the meter that is the customer's property, and we do not have any access to that without his permission.

Mr. CORCORAN. And Mr. Stephens, would the same be true for your organization?

Mr. STEPHENS. The same is true under Texas law and utility regulation. The only right of entry we would have would be in instances of public health and safety—if there were a leak, there was an outage and the appliances had to be relit, that type of thing.

But not to go on for the purpose of picking up an appliance and carrying it off his property, no, sir.

Mr. CORCORAN. Thank you very much.

That concludes the questions I have. I would just like to make a comment, and that is, I sincerely appreciate the testimony of the department witnesses earlier this morning, and your testimony today. I want to commend the chairman for holding this hearing on H.R. 4576. Congressman Young has introduced the bill, as you well know, about a year or so ago. He has quite a number of co-sponsors, including myself, and I would be very hopeful that we might be able to remedy this problem in a reasonable way very soon.

Thank you very much.

Mr. DINGELL. The Chair thanks the gentleman.

Mr. Finnegan.

Mr. FINNEGAN. Gentlemen, I just want to be sure it is clear under your understanding of H.R. 4576 that if this were to be enacted in its present form, leaving aside the other issue of an attachment to the bill, that the only effect of this would be to eliminate the prohibition relative to the residences for the 1982, in the case of the 1982 deadline, and that it would not affect the prohibition that would preclude not only the installation of new lights, but also the repair or modification or anything of existing lights, so that your companies would still be prohibited from doing anything to continue lights in service too, isn't that correct?

Mr. WOOD. We are very much aware of that, yes.

Mr. FINNEGAN. You don't have any problem with that aspect of it?

Mr. STEPHENS. I am a little confused about the last part.

Mr. FINNEGAN. What we would be concerned with is this could be read and I think it is all right, but I want to read it carefully, that you could go in and take an existing light that was out for the moment for one reason or another and repair and continue to exist rather than—in a sense it is like a new light, continue to put it back into being. One that has been turned off for some time now. Go in—turned off because it is broken for some reason or other. I have seen some in my neighborhood that are out, have been knocked down. You can repair it and put it back into service again. You are not intending to try to do that.

Mr. STEPHENS. If it were in existence on the date of this act, and something happened that caused it to need to be repaired, the way I view the act, we would still be allowed to do that—if it were in existence and in use.

Mr. FINNEGAN. That is what I mean. If it is in use now, that is one thing, but supposing it is not in use. What we are trying to do is not put them back into use; something that is out of use.

Mr. STEPHENS. I think that is correct, and we read the bill as applying only to those in existence on the effective date of the original act.

Mr. FINNEGAN. The intent is that this amendment should only apply to lights that are in fact in use on the effective date of this new bill.

Mr. STEPHENS. On the effective date of the original bill. Of the act—

Mr. FINNEGAN. Well, perhaps to all those lights that have been turned off since the passage of the Fuel Use Act to the present time. All of you have described there has been a decline. Now, some of those people may have turned them off by reason of the fact of cost, but others, as you pointed out, turned them off because of the prohibition. If you eliminate the prohibition, and those people could put those lights back on again, the way you just described it, that would mean instead of continuing to decline, you might have an increase. That is what I am trying to get at.

Mr. WOOD. That would also be a very difficult thing to control. Many of our customers are pretty handy themselves. We do not advocate that, but if some customer decided he could repair his own gaslight, he could do that.

Mr. FINNEGAN. If we were to make it clear that is not to be permitted under the law, you would not have any problem with that, is that right?

Mr. HALSEY. Mr. Finnegan, if I could, I suggest that we are getting into fairly specific and detailed matters here. I think we would have a hard time determining what was repair of a light that perhaps wasn't burning because of damage or whatever, vis-a-vis one that has been turned off for whatever reason, and throughout all of this I think we have all tried to emphasize that in our responsibility in providing service, which is a real responsibility for us, it is very difficult for us to go out and be enforcers.

Mr. FINNEGAN. One way you can do it is to say it has to be in effect on the date of the Fuel Use Act and on the date of this bill.

Mr. HALSEY. As long as you recognize it is not black or white. It could be rather gray.

Mr. FINNEGAN. Thank you. No further questions.

Mr. DINGELL. Gentlemen, the subcommittee thanks you for your patience and assistance to us today. If there is no further business to come before the subcommittee, we will adjourn.

[The following statements were received for the record:]

STATEMENT OF GEORGE H. LAWRENCE, PRESIDENT
THE AMERICAN GAS ASSOCIATION
BEFORE THE
ENERGY AND POWER SUBCOMMITTEE
OF THE
HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE
ON
IMPLEMENTATION OF AND AMENDMENTS TO SECTION 402 OF THE
FUEL USE ACT,
THE PROHIBITION ON NATURAL GAS USE FOR OUTDOOR LIGHTING
DECEMBER 12, 1980

INTRODUCTION

MR. CHAIRMAN, on behalf of the American Gas Association (A.G.A.), which represents nearly 300 natural gas distribution and transmission companies serving over 160 million consumers in all 50 states, I am pleased to submit our views to the Subcommittee on the implementation of Section 402 of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), which prohibits the use of natural gas in outdoor gas lighting. I would also like to emphasize our support for enactment of H.R. 4576, introduced in the 96th Congress by Representative Robert A. Young (D-MO). This measure would amend FUA Section 402(b)(1) to exempt from the ban residential outdoor gas lighting fixtures which were installed prior to the FUA enactment date of November 9, 1978. If legislation to repeal this ban is not enacted during 1981, such residential gas lights will be automatically prohibited as of January 1, 1982.

During the Congressional debate on the FUA, A.G.A. opposed the ban on new and existing residential outdoor lighting. We believe the Congressional action to ban outdoor residential gas lighting was a response to the shortages of natural gas in the winter of 1976-77.

Now that the production incentives in the Natural Gas Policy Act (NGPA) have resulted in a stable short-term (and promising long-term) gas supply outlook, the original rationale for the Section 402 ban is now completely obsolete. As enacted, Section 402 is highly discriminatory against the natural gas industry because there are no restrictions at all on outdoor electric lights. In addition the problems inherent in the legislation will be compounded if the ban is not implemented in a reasonable fashion.

THE GAS ENERGY SUPPLY OUTLOOK

Today, the nation's available gas supplies are significantly improved, and are expected to improve further in the future. . A recent report by the A.G.A. Gas Supply Committee, The Gas Energy Supply Outlook, 1980-2000, concludes that natural gas energy will continue to supply 25 percent of our nation's total energy requirements in the year 2000, and possibly as much as 33 percent - the level provided by gas energy in the late 1960's and early 1970's.^{1/} Depending on one's assumptions regarding future technical, social, economic, and political conditions, it is reasonable to expect that a range of 23 and 33 Tcf of annual gas production can be provided in the year 2000.^{2/}

Consequently, the sole rationale for the ban - that is, the out-moded perception of declining gas supplies - is now without factual basis. In view of this optimistic gas energy supply outlook through the year 2000, the A.G.A. feels confident the gas industry can continue to provide service to existing residential outdoor gas lights, without disruption of service to any other class of customers.

1/ The Gas Energy Supply Outlook: 1980 - 2000; A report by the A.G.A. Gas Supply Committee, American Gas Association, October, 1980, p.2.

2/ Ibid.

We must also stress that the 1982 ban will have a virtually microscopic impact on gas consumption. The Department of Energy (DOE) has estimated there are 1.5 million natural gas outdoor lighting fixtures which will be affected by the statutory ban. DOE has further estimated that this would result in a net energy savings of 26.8 trillion Btu's per year, or 0.14% of national annual natural gas consumption.^{3/} Further, if these lights are replaced by electric lights, the relatively low total energy efficiency of electricity means that the total source energy consumed will be roughly three times the Btu's presently consumed in the affected outdoor gas lights.

We would also like to note the results of a consumer research study prepared in June, 1979 for A.G.A. by Yankelovich, Skelly and White, Inc., which, among other issues, investigated the number of outdoor gas light in place at that time, and the corresponding number of those lights which are no longer burning. If the Yankelovich, Skelly and White results are correct, then approximately 50% of the lights in place were no longer in use by the customers sampled.^{4/}

A.G.A. submits that this prohibition will therefore result in minimal energy savings at a substantial cost to consumers and to the natural gas distribution and pipeline companies that supply gas for outdoor lights.

AN AMENDMENT TO PERMIT CONTINUED SERVICE TO EXISTING RESIDENTIAL OUTDOOR GAS LIGHTS

In order to permit owners of existing residential outdoor gas lights to continue using their lights after January 1, 1982, and to mitigate the adverse effects (with regard to compliance and enforcement) that

^{3/} 44 Fed.Reg. 7570 et seq. (February 13, 1979).

^{4/} The 1979 Study of Consumer Attitudes Toward the Natural Gas Industry (A Trend Reading), Volume I, Management Report; Yankelovich, Skelly, and White, Inc., (New York, New York, August, 1979), p.87.

this prohibition will have on natural gas distribution companies, Representative Robert A. Young (D-MO) introduced H.R. 4576 on June 21, 1979. This bill would repeal the currently scheduled 1982 ban on residential outdoor gas lighting fixtures installed before the date of enactment of the Fuel Use Act (November 9, 1979). Presently, this measure is co-sponsored by 134 Members of the House of Representatives. A.G.A. supports H.R. 4576 and believes it provides a means by which the compliance and enforcement problems confronting state agencies and natural gas utility companies may be eliminated. We urge the Subcommittee to review the objectives of this bill and to take steps to favorably report it early in the next session of Congress.

STATUS OF ECONOMIC REGULATORY ADMINISTRATION (ERA) REGULATIONS

The ERA issued the final rule to implement Section 402 on May 10, 1979 (10 C.F.R. Part 516, 44 Fed.Reg. 27606). In response to criticism and challenges to the regulations, ERA subsequently proposed regulatory amendments to the final rule. A.G.A. presented both oral testimony and written comments which expressed support for the proposed amendments, and urged adoption of certain modifications. The final version of the amended final rule was published on May 23, 1980 (45, Fed.Reg. 35206). While A.G.A. believes the amended final rule represents an improvement over the original regulations, we continue to have major concerns with the statute itself, and the regulations which are implementing it.

LITIGATION CONCERNING SECTION 402 OF THE FUEL USE ACT

As you may know, there is presently pending in the Fifth Circuit Court of Appeals litigation concerning Section 402 of the Fuel Use Act and the regulations issued thereunder. A.G.A., along with three individual companies, Atlanta Gas Light Company, Entex, Inc., and Laclede Gas Company, have challenged the constitutionality of the statute

and the propriety of the regulations issued thereunder. The plaintiffs have raised various issues, including:

- (1) the constitutionality of the regulation of individual states through Section 402;
- (2) the constitutionality of federal regulation of intrastate distribution of natural gas;
- (3) the constitutionality of establishing penalties without indicating when a company has knowledge of the kind of information which will subject it to those penalties;
- (4) the constitutionality of imposing federal penalties for compliance with state laws;
- (5) the propriety of delegating the administration and enforcement of this program to the states.

It is expected that six to nine months will pass before the Fifth Circuit Court of Appeals will have oral argument in this case. At present, it is by no means certain that a cohesive and understandable program regarding gas lights exists.

The Secretary's regulations to implement FUA Section 402 were drafted in mandatory, as opposed to hortatory, language. Indeed, reporting requirements were imposed by the Secretary on the states. Now, however, the Secretary has taken the position before the Court that the regulations impose no mandatory duties upon the individual states, and that state "participation in the Section 402 program is wholly voluntary".^{5/} It is not clear how many states have adopted the Secretary's regulations, or variations thereof, on the mistaken understanding that the Secretary of Energy was requiring that they do so. Will those states attempt to enforce the ban? We do not know. Where states have declined to implement such a program, is it the Secretary's intention to enforce the federal prohibitions? We do not know. Now more than ever,

^{5/} Brief of Respondent Department of Energy, at p.21, Atlanta Gas Light Co. et.al. v. Department of Energy, No. 79-2568, et.al., (5th Circuit Court of Appeals).

the need for clarification is great, because of the uncertainty created by the Department of Energy.

COMPLIANCE AND ENFORCEMENT PROBLEMS

A.G.A. continues to be concerned that ERA has not provided adequate guidance for the implementing authorities and utilities to respond to situations in which utility compliance with the disconnection directives is prevented by legal or practical obstacles. Since legal or practical obstacles will clearly emerge in many cases, implementing authorities deserve clarification of the proper approach for dealing with utilities under such conditions. Specific examples of possible barriers to utility compliance would include, but are not limited to, trespass laws barring access to gas lights on private property, lack of utility data on gas light ownership, lack of authority to prohibit installation, lack of authority to disconnect a gas light without the customer's permission, and the inability of utilities to prevent reconnection of gas lights by a customer after disconnection.

The cost of compliance also creates a substantial economic burden for utilities. These costs consist of, but are not limited to, the cost of canvassing and locating all gas lights in a company's service area, the cost of physically shutting off a gas light, and the costs of administering the requirements of the prohibition.

CONVERSION COSTS FOR OUTDOOR GAS LIGHT OWNERS

A.G.A. is also concerned that the costs of converting an existing gas light to an electric light can represent a significant expense for the individual customer and could be a burden upon the elderly and those on fixed incomes. The cost to the homeowner of

converting an existing gas light to an electric light on a unit basis has been estimated to be approximately \$214 per conversion, using 1979 cost figures and assuming that the work is to be performed by an electrical contractor using conventional mark-up calculations.^{6/} The cost of installing a new electric light is estimated to be \$263 using 1979 cost figures. If one assumes that the 1979 inflation rate of 13% is applicable to the costs of gas light conversion, then in 1980, the cost of converting an existing gas light to an electric light on a unit basis is estimated to be approximately \$242 per conversion, and the cost of installing a new electric light is estimated to be \$297. Thus, the cost of conversion to an electric light of \$242 (in 1980 dollars) could impose a substantial financial burden on many individuals.

Enactment of an amendment to Section 402, which would repeal the outdoor gas lighting ban to the extent that it applies to existing residential outdoor gas lighting fixtures, would alleviate this conversion cost burden on many individual outdoor gas light owners.

TWO DEVICES WHICH DIM OUTDOOR LIGHTS DURING DAYLIGHT HOURS

We would like to bring to the attention of the Subcommittee two devices which have been developed that reduce the flow of gas to

^{6/} "Gaslight Conversion Cost Study - Cost Update", Ross & Baruzzini, Inc., Consulting Engineers, (St. Louis, Missouri, March 20, 1979), p. 1 and 2.

outdoor gas lights during daylight hours, and allow the light to burn during the night. These devices would significantly reduce the amount of natural gas consumed in existing outdoor gas lights.

One company has developed a device, which is an outdoor gas light with a control knob and an instant igniter which provides control and operation. The igniter is a "piezoelectric" crystal which creates a spark without the use of external power. These devices allow instant lighting when one turns the control knob and pushes a button to activate the "piezoelectric" crystal. Any existing outdoor gas light can reportedly be converted with an add-on igniter switch which can be easily mounted on the existing light in a few minutes. The estimated cost of this device is \$25.00. This device is currently not in production because there is presently no demand for the product, and no demand is anticipated because of the January 1, 1982 prohibition on existing residential outdoor gas lights. We believe that this device, if marketed on a wide spread basis, could reduce consumption in existing residential outdoor gas lights by approximately 50%. However, these devices could only enter the market if the prohibition on existing residential outdoor gas lights were removed, and there were assurances that such a market for these devices would exist.

The other device we would like to discuss is a gas light control device that another company has developed. This device is a self-contained module which dims the gas light automatically during the day, and allows it to burn during the night. The device is comprised of an automatic control valve with an adjustable bypass and a solar cell with light gathering lens enclosed in a die cast housing. During the day, electricity generated from the solar cell closes the valve so that approximately one third of the full gas flow is utilized to provide a low "pilot" flame to the mantle. During the

night, the automatic valve opens due to reduced electricity from the solar cell and the valve opens to provide a full flow to the gas light burner. This device can be installed in a few minutes on either new or existing outdoor gas light units. The estimated cost of this device is approximately \$40.00. As for the other device, there is presently no demand for this product. This is another device which we believe could reduce gas consumption in existing outdoor gas lights by a significant amount. The principal obstacle to the sale and utilization of these devices is that there is no market demand due to the prohibitions imposed under Section 402 of the Fuel Use Act.

CONCLUSION

In conclusion, A.G.A. would like to emphasize that our nation's gas energy supply outlook is significantly improved today over the gas supply situation that existed when Congress approved the outdoor lighting ban under FUA. Service to outdoor gas lights does not threaten to disrupt gas service to any other class of customers. We believe that, given the optimistic gas energy supply outlook, the minimal energy savings that will be the result of implementing the outdoor gas light prohibition are not sufficient to warrant the substantial cost that the prohibition will doubtlessly bring to both consumers and the natural gas distribution and pipeline companies that supply gas for these lights. The Economic Regulatory Administration has not implemented the program in a comprehensive manner, and has failed to provide clear guidelines to implementing authorities regarding compliance and enforcement obstacles.

A.G.A. supports enactment of H.R. 4576 which will permit local distribution companies to continue to provide service to existing residential outdoor gas lighting fixtures. We believe this measure would eliminate the compliance and enforcement problems confronting the implementing authorities and would avoid the conversion cost burden that will otherwise be imposed on individual gas light owners and the utility companies serving those lights. We urge the Congress to enact H.R. 4576, or similar legislation, during the next Session of Congress -- so that action will be taken prior to the January 1, 1982 effective date of the prohibition on gas service to existing residential outdoor gaslight fixtures.

A.G.A. appreciates this opportunity to provide this written statement for consideration by the Subcommittee in its review of implementation of Section 402 of the Fuel Use Act. We would be happy to discuss this issue with you further -- and to provide additional information -- in the future.

Testimony of Saunders Gregg, Senior Vice President of
Entex, Inc.
before the
Energy and Power Subcommittee
of the
House Interstate and Foreign Commerce Committee
on
Implementation of and Amendments to Section 402 of the
Fuel Use Act, The Prohibition on Natural Gas Use
for Outdoor Lighting

December 12, 1980

Mr. Chairman, Members of the Subcommittee, I am Saunders Gregg, Senior Vice President and Member of the Board of Directors of Entex, Inc. Entex, Inc. distributes gas to approximately one million and one hundred thousand customers in Mississippi, Louisiana, and Texas.

I am glad to have the opportunity of submitting Entex, Inc. position on the implementation of Section 402 of the Powerplant and Industrial Fuel Use Act of 1978 (Fuel Use Act) which prohibits the use of natural gas for outdoor gas lighting. Our position on such implementation of the Fuel Use Act, as hereinafter set forth, necessarily includes our recommendation for the passage of H.R. 4576 introduced by Representative Robert A. Young (D-Mo.).

I have reviewed the testimony of Mr. Tom Stephens of Pioneer Gas Company and Entex, Inc. endorsed Pioneer's position. In short, Entex, Inc. position is that the Fuel Use Act would best be implemented or amended by the adoption of H.R. 4576 which allows domestic uses of natural gas to continue after January 1, 1982 outdoor gas lights which were installed upon November 9, 1978. Our position is based upon the following factors:

(1) The prohibition against gas lights in the Fuel Use Act was responsive to the natural gas shortage in the winters of 1976-77 and 1977-78. The gas supply situation has now significantly improved and is expected to continue to improve. A recent report by the American Gas Association Gas Supply Committee, "The Gas Energy Supply Outlook 1980-2000" concludes that natural gas energy will continue to supply twenty-five percent of our nation's total energy requirements in the year 2000 and possibly as much as thirty-three percent - the percentage provided by gas energy in the late 1960's and early 1970's. Also, we hasten to point out that the total amount of gas used in all domestic outdoor gas lighting is less than two tenth of one percent of the national usage. Each gas light is estimated to use one and one half mcf per month. In view of the present gas supply outlook through the year 2000, it is apparent that the gas industry can continue to provide services to existing outdoor gas lights without disruption of services to any other class of customers.

(2) The conversion of existing outdoor lights will cost between \$200 and \$300 (1980 dollar) per installation depending upon the location. The cost of such conversion in 1982 would, of course, increase because of inflation. Such costs would be quite a burden to many individuals. On the other hand, some individuals have replaced their gas lights with very large electric flood lights. New flood lights when utilizing electricity which is generated from gas fired boilers results in the utilization of much more gas than when using gas lights. This situation has occurred in Houston where all houses in certain subdivisions have installed electric flood lights.

(3) Gas lights have proved to be the most dependable lights available. For example, gas lights have continually withstood many hurricanes and other storms along the Gulf Coast. In Dallas in the 1978-1979 severe winter freeze, gas lights were the only lights available for a period of two weeks in many parts of the City.

(4) The elimination of outdoor gas lights is clearly discriminated against the gas industry. For example, we have many customers who must discontinue their uses of gas lights when electric sign boards near their residences are lighted 24 hours each day.

(5) The enforcement of the ban of gas lights has many legal barriers. Gas companies have no right to go on customer's property to disconnect a gas light nor do they have any method of

preventing a customer from reconnecting a gas light. Pioneer has fully discussed this problem.

(6) At the time of the enactment of the prohibition of installation of new gas lights in November 1978, Entex, Inc. had approximately 90,000 gas lights on its system. This number has already through attrition been reduced to approximately 60,000.

As I mentioned before, H.R. 4576 would repeal the prohibition of natural gas service to residential customers for use in outdoor lighting fixtures installed before November 9, 1978. The enactment of H.R. 4576 would, as to lights installed before November 9, 1978 cure most of the objection listed above. Entex, Inc. supports H.R. 4576 and urges this Committee to take steps to favorably report it early in the next Session of Congress. Entex, Inc. is a member of the American Gas Association and the Southern Gas Association, both of which Associations recommend the passage of H.R. 4576.

Thank you.

Lawrence Gregg

STATEMENT OF THE LONE STAR GAS CO., A DIVISION OF ENSERCH CORP.

Lone Star Gas Company, a Division of ENSERCH Corporation, concurs with the statement and testimony of Pioneer Natural Gas Company in this hearing before the Congressional subcommittee. In addition, Lone Star Gas Company believes that the consumers' viewpoint must be given serious consideration.

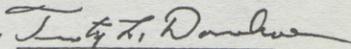
Lone Star Gas Company's market research indicates that a large number of consumers believe their gas lights are needed for personal protection. Requiring these consumers to obtain exemptions and requiring states and cities to establish exemption-granting authorities seems a serious waste of resources. The grandfathering of existing gas lights through passage of H.R. 4576 represents a more reasonable alternative. The natural decline in the use of gas lights, which is also revealed by Lone Star Gas Company's market research, will continue to reduce the number of gas lights in service. Therefore, the ultimate objective of eliminating unnecessary consumption of natural gas will be achieved without the imposition of unnecessary regulatory burdens.

Of the over 400 towns in Texas which Lone Star Gas Company serves, only 14 have taken any action regarding the outdoor gas light ban. Many of the smaller cities do not have the ability or resources to make meaningful determinations on exemptions or otherwise administer the program. Thus, the present system is likely to make a mockery of the law. Rather than condone such a result, Lone Star Gas Company urges the passage of H.R. 4576.

Respectfully submitted,

Lone Star Gas Company,
a Division of
ENSERCH Corporation

By



Timothy L. Donohoe
Federal Relations Coordinator

[Whereupon, the hearing was adjourned.]

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