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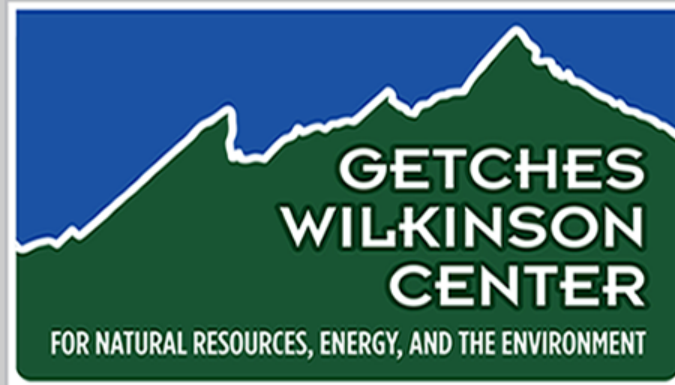
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OFF-SYSTEM SALES: WILL THEY EVER RETURN?

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OFF-SYSTEM SALES FROM THE NATURAL GAS PRODUCERS
AND INTRASTATE PIPELINE'S POINT OF VIEW

I. BACKGROUND: FACTORS THAT CONTRIBUTED TO THE PRESENT HIGH RATE OF NATURAL GAS DELIVERABILITY.

- A. THE PROBLEM OR TROUBLE PRESENTLY EXISTING IN THE NATURAL GAS INDUSTRY IS NOT ONE OF EXCESSIVE NATURAL GAS RESERVES, BUT RATHER AN EXCESS IN PRESENT DELIVERABILITY.
- B. THE SHORT FALL IN DELIVERABILITY EXPERIENCED BY A NUMBER OF INTERSTATE PIPELINES IN THE SEVENTIES CAN BE TRACED IN MANY INSTANCES TO THE ARTIFICIALLY LOW INTERSTATE PRODUCER RATES ESTABLISHED BY THE FEDERAL POWER COMMISSION UNDER THE NATURAL GAS ACT.
- C. BECAUSE OF THEN EXISTING MARKET FORCES INVOLVING LOW SUPPLY AND HIGH DEMAND, INTERSTATE PIPELINES WERE WILLING TO ENTER INTO LONG-TERM PURCHASE AGREEMENTS WHICH CONTAINED HIGH "TAKE-OR-PAY" PROVISIONS.
- D. GOVERNMENTAL POLICY REQUIRED NATURAL GAS PRODUCED IN THE FEDERAL OFF-SHORE DOMAIN BE SOLD IN THE INTERSTATE MARKET.
- E. GOVERNMENTAL POLICY REGARDING THE FEDERAL OFF-SHORE DOMAIN TENDED TO FAVOR HIGH DELIVERABILITY TO THE DEFERENCE OF PROTECTING RECOVERABLE NATURAL GAS RESERVES.

II. OFF-SYSTEM SALES FROM THE POINT OF VIEW OF THE NATURAL GAS PRODUCERS WHO SELL TO INTERSTATE PIPELINES.

- A. PRODUCERS WITH PURCHASE AGREEMENTS WHICH CONTAIN HIGH "TAKE-OR-PAY" PROVISIONS BASED ON DELIVERABILITY IN

GENERAL HAVE LITTLE OR NO INTEREST IN THE CONCEPT OF OFF-SYSTEM SALES.

- B. THE EXCEPTION INVOLVES CASES WHERE THE PRODUCER'S PURCHASE AGREEMENT DOES NOT CONTAIN PROVISIONS THAT ALLOW FOR AN INCREASE IN PRICE OR VALUE BETWEEN THE "PAY-FOR" PERIOD AND THE ACTUAL DELIVERY OF "MAKE-UP" VOLUMES.
- C. PRODUCERS WITH PURCHASE AGREEMENTS WHICH CONTAIN LOW OR NO "TAKE-OR-PAY" PROVISIONS FAVOR OFF-SYSTEM SALES OR OTHER VEHICLES THAT INCREASE THROUGH-PUT IN THEIR PURCHASER'S PIPELINE SYSTEM.
- D. ABSENT STATE CONSERVATION REGULATIONS OR PRACTICES, THE PRODUCERS WITH PURCHASE AGREEMENTS WHICH CONTAIN LOW OR NO "TAKE-OR-PAY" PROVISIONS WILL BE THE FIRST PRODUCERS TO HAVE THEIR PRODUCTION SHUT-IN AND THE LAST TO HAVE PRODUCTION RECOMMENCE.

III. OFF-SYSTEM SALES FROM THE POINT OF VIEW OF THE NATURAL GAS PRODUCERS WHO SELL TO INTRASTATE PIPELINES.

- A. THE CONCERNS DESCRIBED ABOVE REGARDING PROVISIONS IN PURCHASE AGREEMENTS INVOLVING "TAKE-OR-PAY" ARE TO A CERTAIN EXTENT APPLICABLE IN THE CASE OF PRODUCERS WHO SELL NATURAL GAS TO INTRASTATE PIPELINES.
- B. THE PRODUCERS WHO SELL TO THE INTRASTATE PIPELINES TEND TO HAVE A BETTER UNDERSTANDING THAT A DISRUPTION IN THEIR PURCHASING PIPELINE'S MARKET WILL IMPACT THEM QUICKER THAN IN THE CASE OF PRODUCERS WHO SELL TO INTERSTATE PIPELINES.

IV. OFF-SYSTEM SALES FROM THE POINT OF VIEW OF THE INTRASTATE PIPELINE.

- A. THE PROBLEM OF OVER-DELIVERABILITY IN INTERSTATE PIPELINE-PRODUCER CONTRACTS IS THE TYPE PROBLEM THAT SHOULD HAVE BEEN ANTICIPATED AT THE TIME OR TIMES INTERSTATE PIPELINES ENTERED INTO SUCH CONTRACTS.
- B. THE INCREASED PRODUCER RATES ESTABLISHED BY THE FEDERAL POWER COMMISSION IN OPINION NO. 770, ISSUED JULY 27, 1976, AND IN OPINION NO. 770-A, ISSUED NOVEMBER 5, 1976, ALONG WITH RATES FOR NEW GAS ESTABLISHED BY THE NATURAL GAS POLICY ACT OF 1978, SHOULD HAVE BEEN ANTICIPATED AS AN AURA OF EXCESSIVE DELIVERABILITY TO THE INTERSTATE MARKET.
- C. HIGHER NATURAL GAS PRICES PAID BY INTERSTATE PIPELINE MINUS DECREASED NATURAL GAS USAGE BY THE BURNER-TIP CUSTOMER EQUALS CONSERVATION.
- D. WITH THIS RATIONALE IN MIND, WHY SHOULD THE IMPRUDENT CONTRACTUAL PRACTICES OR SINS OF THE INTERSTATE PIPELINES BE VISITED UPON THE INTRASTATE PIPELINES IN THE FORM OF OFF-SYSTEM SALES?
- E. OFF-SYSTEM SALES AT BEST SHOULD BE LIMITED TO MARKETS THAT ARE NOT PRESENTLY SERVED BY AN INTRASTATE PIPELINE OR A MARKET WHICH CANNOT OBTAIN ITS FULL SUPPLY NEEDS FROM AN INTRASTATE PIPELINE.
- F. ONCE AN INTERSTATE PIPELINE HAS ASSUMED THE RESPONSIBILITY OF PROVIDING NATURAL GAS SERVICE BY MEANS OF AN OFF-SYSTEM SALE, THE INTERSTATE PIPELINE SHOULD HAVE THE OBLIGATION OF LONG-TERM CONTINUING SERVICE.

G. AS OPPOSED TO EXPANDING UPON A PROPOSAL WHICH DISRUPTS THE TRADITIONAL INTRASTATE NATURAL GAS MARKET, THE FEDERAL ENERGY REGULATORY COMMISSION AND THE INTERSTATE PIPELINE INTERESTS SHOULD DEVISE AN OFF-SYSTEM SALES PLAN TO DISPLACE IMPORTED NATURAL GAS AND LIQUIFIED NATURAL GAS.