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Richard G. Morgan

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LEGISLATIVE PROSPECTS FOR
WELLHEAD PRICING OF NATURAL GAS

by
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for the
NATURAL GAS SYMPOSIUM: CONTRACT
SOLUTIONS FOR THE FUTURE
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LEGISLATIVE PROSPECTS FOR
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Submitted by: Richard G. Morgan
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Washington, D.C.

I. INTRODUCTION

A. Despite efforts by Congress in 1978 to end the debate over natural gas pricing, the current federal scheme for regulating wellhead prices has been largely a failure. The Natural Gas Policy Act of 1978 ("NGPA") and the implementing regulations promulgated by the Federal Energy Regulatory Commission ("FERC" or "Commission") have not been able to maintain a fair, equitable and stable pricing structure in what is a tumultuous natural gas market.

B. While general agreement exists that the country's current natural gas policy requires change, there is widespread disagreement over what should be changed and how and when change should occur. Some sides to the dispute favor the status quo; others advocate a total and immediate end to all federal pricing controls; others support a middle ground, and still others cry for more controls. Such disparity creates confusion, and sometimes chaos in the marketplace.

C. Unfortunately, the future is highly uncertain. About the only thing we do know for sure is that, in the near
term, the demand for gas will continue to be soft. Less demand, coupled with a complex regulatory pricing mechanism, creates havoc among existing and potential parties to gas purchase contracts.

D. This paper will consider the legislative options which may be available to solve the difficult problems connected with the gas pricing controversy. Because of the disarray of the gas market and legislative and administrative politics, choosing the right option or even predicting the final outcome is no easy task. My paper concludes with an assessment, as the situation exists at the end of February, of what the future holds for the natural gas production and distribution industry.

II. THE NGPA: CURRENT REGULATORY STRUCTURE

A. The NGPA was designed to allow the price of natural gas to increase gradually to a market clearing level over a six-year period beginning in 1978. The market level was anticipated to be roughly equivalent, on a Btu basis, to the price of oil. This gradual approach was designed to avoid sudden and substantial price increases which many believed would occur upon immediate decontrol.

B. The NGPA pricing system is flawed, however, because the increases contained in the NGPA are, for the most part, insufficient to reach market clearing levels. On the
other hand, some of the NGPA ceiling prices, such as NGPA Section 107 tight sand prices, may exceed the current market clearing prices in some instances. If partial deregulation occurs in 1985, as is currently the plan, some of the artificially suppressed, below-market prices may shoot up dramatically to the market price due to the operation of escalation provisions in gas purchase contracts. This phenomenon has been dubbed the "price spike" and is the precise situation the Congress sought to avoid by enacting the NGPA.

C. Elimination of Price Controls: Price controls for certain categories of natural gas have been or will be deregulated entirely in accordance with NGPA Section 121.

D. Schedule of Deregulation Dates and Categories Under NGPA.

1. Effective on November 1, 1979, which was the date of the first incremental pricing rule required by NGPA Section 201(a):
   a. deep-drilling gas [NGPA Section 107(c)()];
   b. geopressurized brine gas [NGPA Section 107(c)()];
   c. coal seam gas [NGPA Section 107(c)()]; and
   d. Devonian shale gas [NGPA Section 107(c)()].
2. Effective January 1, 1985:
   a. new Outer Continental Shelf ("OSC") gas [NGPA Section 102];
   b. new onshore well gas: "2.5 mile" rule [NGPA Section 102];
   c. new onshore well gas: "1,000 feet deeper" rule [NGPA Section 102];
   d. new onshore reservoir gas [NGPA Section 103];
   e. new onshore production well gas not committed or dedicated on April 20, 1977, and produced from completion location of more than 5,000 feet deep;
   f. existing intrastate contract gas (and successors to existing contracts) where contract price exceeds $1.00 per million Btu as of December 31, 1984, other than by operation of indefinite price escalation clause [NGPA Section 105];
   g. intrastate rollover contract gas where contract price exceeds $1.00 per million Btu as of December 31, 1984, other than by operation of indefinite price escalator clause [NGPA Section 106(b)];
3. Effective July, 1987:
   New onshore production well gas not committed or dedicated on April 20, 1977 and produced from completion location of 5,000 feet deep or less.

E. Categories of natural gas which remain regulated indefinitely for pricing purposes:

1. new OCS reservoirs on old leases [NGPA Section ];
2. gas from wells spudded on or after January 1, 1975, and before February 9, 1977 [NGPA Section 104];
3. 1973-1974 biennium gas [NGPA Section 104];
4. gas from wells spudded prior to January 1, 1973 [NGPA Section 104];
5. special relief/optional procedure gas established after April 20, 1977, and before enactment;
6. gas sold under existing contracts, successors to existing contracts and rollover contracts where contract price on December 31, 1984, is $1.00 per MMBtu or less [NGPA Section 105];
7. other high-cost gas [NGPA Section 407(c)(5)];
8. stripper well gas [NGPA Section 108];
9. other new wells not qualifying for a higher price;
10. NGPA Section 109(a)(2) gas;
11. "behind-the-pipe" and "withheld" gas [NGPA Section 109(a)(3)];
12. Prudhoe Bay Unit gas [NGPA Section ];
13. all other categories of gas not specifically deregulated.

F. Reimposition of Price Controls

1. Congress has retained standby price control authority under NGPA Section 122, which permits the reimposition of price controls for first sales of natural gas which are subject to Section 121(a) and are delivered after the effective date of the reimposition.

2. The price controls reimposed are to remain in effect for a single eighteen-month period, and they may not become effective before July 1, 1985, or after June 30, 1987.

III. "ADMINISTRATIVE" DECONTROL

A. Unfortunate Misnomer — courtesy of FERC officials.

B. NGPA Section 104(b)(2) — Ceiling prices may be increased if "just and reasonable."

C. NGPA Section 106(c) — Ceiling prices may be increased if "just and reasonable."

D. NGPA Section 107(c)(5) — Incentive pricing for gas produced under "extraordinary risks or costs."

1. Tight formation gas.
2. Certain OCS gas.
3. Production enhancement gas.
4. "Near deep" gas.
E. NGPA Section 109(b)(2) — Ceiling prices may be increased if "just and reasonable."

F. NGPA Section 110 — Production-related costs
   1. Compression;
   2. Gathering;
   3. Treating;
   4. Liquefying; and
   5. Transporting

G. NGPA Section 502(c) -- Special hardship, inequity, or unfair distribution of burdens.

H. "Recontrol"
   1. NGPA Section 601(c) -- Pipeline passthrough and fraud and abuse standards.
   2. Proposed "split cap" on tight sands incentive prices -- limitation on incentive prices for high-cost gas to commodities values. Docket No. RM82-32.

I. Political and Consumer Pressures
   1. FERC Chairman C. M. Butler III has asked the President to appoint a special commission to deal with gas pricing problems.
   2. Consumer groups' opposition to decontrol is well organized, while industry has not presented a united front.
   3. In recent Congressional testimony, Chairman Butler said, "The current problems of the gas industry
and its customers are real, and they are getting worse."

4. Butler predicted that additional consequences of the NGPA, as it now exists, will be felt before the end of 1983, including:
   a. unjustifiably high prices paid for gas in the field;
   b. unnecessary increases in pipelines' rates as more of their fixed costs are shifted to remaining loads;
   c. mushrooming litigation over distributors' increasingly frequent failures to honor minimum bills set by pipelines, and pipelines' failure to honor the take-or-pay provisions in their contracts with producers.

5. The Commission has only limited authority to avert these dangers. Butler noted that FERC, under the NGPA, has become "...principally a regulator of pipelines. Pipeline costs have been increasing rapidly, and the staff of the Commission is actively exploring the reasons for this increase. But the largest part of the responsibility for higher burner-tip prices rests on cost of the gas itself, and over that cost the Act has left us little direct authority."
6. Butler said FERC has approved a notice of proposed rulemaking to reconsider the incentive prices FERC has established under NGPA Section 107(c)(5). Issuance of the proposal for a floating cap on incentive prices "effectively exhausted our direct authority to lower wellhead prices." "We cannot take comparable action under Sections 104, 106, or 109 because those sections explicitly limit us to raising the established maximum lawful price," Butler said. Even more important, "if we are correct in believing that the maximum lawful price under Section 102 exceeds present market-clearing levels at the wellhead, we are clearly unable to reduce it below that statute determined ceiling."

7. FERC is trying to affect wellhead prices indirectly by placing more of the risk of market-ability on the pipelines.

8. Under present regulation, "many pipeline companies may have only a modest incentive to try to retain industrial boiler fuel markets where No. 6 residual fuel oil may be burned as an alternative fuel." This is because a pipeline experiencing loss of its industrial markets may file for increased rates based on the lower sales volume, permitting the pipeline to recover all of its fixed costs, including its allowed rate of return.
9. Because "novel administrative actions" are too slow and because pipelines and producers are unable to renegotiate their contracts, "the principal responsibility for solving these complex [pricing] problems rests with Congress," Butler said.

IV. EXECUTIVE ACTION

A. Despite a 1980 campaign promise to decontrol natural gas prices, President Reagan has been reluctant to take any action in that direction.

1. After lengthy internal consideration of options, the White House in March 1982, announced that no Administration plan would be sent to Congress in 1982.

2. The verdict is still out for 1983.

B. The Cabinet Council on Natural Gas Resources and Environment earlier this year presented several recommendations to the Reagan Administration.

1. Immediate Total Decontrol Option:
   a. Would occur on the effective date of decontrol legislation; or on
   b. Some near-term date certain.

2. Modified Immediate Decontrol Option:
   a. Would occur on some near-term date certain;
   b. Would involve some contract renegotiation or adjustments.
3. Phased Decontrol
   a. Would set up a price phase-out by 1985;
   b. Price would be pegged to 70 percent of
      refiner acquisition cost by January 1, 1985.
4. Continue under NGPA.
5. Summary Of Options' Policy and Political Pros and
   Cons
   a. Immediate total decontrol
      i. Advantages:
         (1) Provides greatest efficiency benefits by allowing all gas to reach a
             market clearing price immediately.
         (2) Permits greatest flexibility in prices, both up and down.
         (3) Permits legislators to disclaim responsibility for any particular
             "target" price.
         (4) Provides greatest flexibility for new market arrangements.
         (5) Provides earliest dismantling of regulatory apparatus.
         (6) The most unsettling aspect of decontrol would be concluded before
             the highly charged 1984 election season.
ii. Disadvantages:

(1) Violates legitimate contracts and expectations of large numbers of businesses.

(2) Provides no protection against fears of unlimited price increases.

(3) Could be politically difficult to sell.

(4) Requires effective restructuring of natural gas industry under very short time deadline.

(5) Could be argued to jeopardize security supply necessary for service of long-term public utility obligations.

(6) Creates renewed claims by other industries (e.g., timber) for contract "adjustments."

b. Modified Immediate Decontrol

i. Advantages:

(1) Almost the same as Immediate Total Decontrol.

(2) Does not interfere as much with legitimate contracts entered into by private parties.
iii. Disadvantages

(1) The modified contracts approach may be difficult to implement and contemplates government intervention.

(2) Would also be politically difficult to sell.

c. Phased Option: Phased decontrol through 1985, with moderate amendments to ease contractual problems.

i. Advantages:

(1) Makes incremental movement from existing regulatory situation to general decontrol.

(2) Works in policy framework with which Congress is familiar.

(3) Provides a predictable framework for future developments in natural gas industry, both production and consumption.

(4) Should cause relatively minor price impact beyond that which would occur anyway.
ii. Disadvantages:

(1) More likely to become mired in Congressional changes and horse trading.

(2) Still creates some additional government intervention by modification of existing contracts in violation of expectations.

(3) Sufficiently complex that true adjustment will not begin in the natural gas industry until after 1985.

d. Continue NGPA

i. Advantages:

(1) Avoids an immediate political fight.

(2) Current situation is perceived as not too bad, as price gap between oil and gas has diminished.

(3) Avoids the possibility of Administration initiatives leading to an ultimate bill worse than the present situation which the President would have to decide whether to veto.

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ii. Disadvantages:

1. Hurts consumers by leading to increased prices and decreased supply over the long run.

2. Leaves initiative in hands of proponents of controls, who will continue to press for further restrictions on gas prices.

3. Prevents most effective and efficient production and use of natural gas, thus exacerbating energy problems.

C. The Hodel Initiative

1. Energy Secretary Donald P. Hodel begins Congressional consultations on natural gas decontrol legislation.

2. The Hodel Gas Price Plan

   a. Between now and January 1, 1985, contracts for natural gas may be renegotiated.

   b. After January 1, 1985, if contract has not been renegotiated prior to that time, either party may opt out and the gas supplier would have the right to contract carriage on a pipeline if there was room on that system -- somewhat similar to common carriage.
c. Between now and January 1, 1986, any increase in price in excess of inflation would be subject to FERC approval.

d. Take-or-pay provisions in contracts would be kept at 70 percent if contract had not been renegotiated.

e. At date of enactment new contracts will be decontrolled without cap [on prices].

f. After date of enactment, any contracts that are renegotiated are decontrolled without cap.

g. Gas cap = average of all new and renegotiated contracts. Date cap expires will be either January 1, 1985, or January 1, 1986.

h. After date of enactment NGPA Sections 102, 103, 105 and 108 existing contracts receive NGPA price or gas cap, whichever is lower.

i. After date of enactment NGPA Sections 104, 106 and 109 stay as scheduled under NGPA price until renegotiated.

j. All gas is decontrolled from Natural Gas Act and NGPA as of January 1, 1985, or as renegotiated earlier.

k. NGPA Section 107 gas with price above gas cap is frozen until cap rises to that point.
1. After January 1, 1985, in any contract not renegotiated, purchaser or seller can market-out.

m. Will allow purchaser an option to reduce take-or-pay to 70 percent. If purchaser exercises option, then seller has market-out option on total contract. Buyer must transport with the "just and reasonable plus 5 cents." Take-or-pay option expires January 1, 1986.

n. No pipeline can take gas from any pipeline production or affiliate's production at rate higher than its lowest rate of take from less expensive gas.

o. FERC, on application, can require a pipeline with capacity to carry gas under a contract between producer and another purchaser. "Just and reasonable plus 5 cents" prevails.

p. Through January 1, 1986, no pipeline purchased gas average can receive automatic passthrough of prices higher than the last preenactment purchased gas average plus inflation.

q. Latest gas cap will be federal approved rates.

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r. All buyers will have equal access to off-shore and interstate gas.
s. Repeal Fuel Use Act and incremental pricing.

D. The General Accounting Office ("GAO") Adds to The Confusion.

1. In a report on natural gas price decontrol released February 10, 1983, the GAO said staying with the NGPA will provide a "smoother path to decontrol" and will result in slightly lower prices throughout the 1980s than removing all controls from gas in 1983.

2. According to the report, total decontrol in 1983 would mean somewhat higher prices in 1983 and 1984, but it added that the total increase through 1985 would be comparable to what would happen under the Act.

3. The report predicted that the increase in prices in real terms under the NGPA will be 83 percent through 1985.

4. Under decontrol in 1983, the increase would be 42 percent.

5. Yet, the report also said that either option would be better in terms of price and supply than any of three other alternatives.

Toby Moffett (D-Conn.), then-chairman of the House
Government Operations Environment, Energy, and
Natural Resources Subcommittee.

7. Five alternatives were analyzed:
   a. Making no change in the NGPA;
   b. Extending the price controls of the NGPA
      through 1990;
   c. Amending the NGPA to permit the Commission to
      raise prices of gas found at depths of 10,000
      to 15,000 feet and of old gas;
   d. Phasing price decontrol by increasing gas
      prices to 70 percent of crude oil prices, with
      total decontrol of wellhead prices in 1985; and
   e. Decontrolling all wellhead prices in 1983.

8. No alternative emerged as "clearly superior," but
   the best results with the fewest disadvantages
   would be obtained either by letting the Act run
   its course or by decontrolling all gas in 1983,
   GAO concluded.

9. The remaining three alternatives -- extending
   controls, amending the Act, or phasing up to total
   decontrol in 1985 -- yielded less favorable
   results.

10. Extending controls could create natural gas
    shortages in 1985 and thereafter.
11. The other two least-favored alternatives set ceiling prices higher than necessary to clear the market and have few compensatory benefits.

12. Between 1982 and 1985, natural gas production and consumption under the NGPA would be within two percent of that under price decontrol in 1983, the report said. Under the Act, prices in 1983 would be 6 percent lower than under total decontrol. Prices during 1984 would be 5 percent lower. With partial decontrol under the NGPA in 1985, prices would increase 13 percent, the report said, compared with the jump in 1983 of 18 percent if all gas were decontrolled.

V. CONGRESSIONAL INITIATIVES


B. The Senate - Sen. James McClure (R-Id.), Chairman of Senate Energy and Natural Resources Committee: "The Referee" says "Wait and see what the President does."

C. Congressional Budget Office says decontrol will not affect federal budget deficit.

1. No impact is predicted over four year period from 1984-1987.
a. CBO explained that changes in natural gas pricing policy would generate economic consequences with conflicting pressures on the federal budget.

(i) On the one hand, higher natural gas prices would result immediately in increased corporate taxes from the gas industry and higher royalty payments from gas produced on federal lands.

(ii) On the other hand, these revenue gains might be offset by macroeconomic adjustments to higher prices.

(iii) To the extent that the adjustment to higher gas prices resulted in a temporary reduction in economic growth and employment, taxes paid elsewhere in the economy could decline, and expenditures for federal transfer payment programs could increase.

(iv) If gas decontrol raised the rate of inflation, expenditures on indexed payment programs (such as Social Security) would also rise.

(v) Expenditures for discretionary programs would either have to be increased or a lower real level of services accepted.

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b. Natural gas decontrol could result in economic gains, as a less-constrained gas market allowed firms and consumers to use energy more efficiently.

2. The CBO report assessed the macroeconomic and budgetary effects of three gas pricing policy options:
   a. complete decontrol of all wellhead natural gas prices on January 1, 1984;
   b. advancing the partial decontrol schedule provided in the NGPA by one year, from January 1, 1985, to January 1, 1984; and
   c. administrative decontrol, with prices for flowing gas under NGPA Sections 104, 106 and 109 increased to the NGPA Section 103 level on January 1, 1983.

3. CBO assumed that oil prices would rise from $34/bbl in 1983 to about $39/bbl. in 1985 (in nominal dollars) and increase at an assumed 7 percent annual rate of inflation thereafter, that discretionary federal spending would increase in response to inflation, and that there would be complete accommodation in monetary policy (i.e., the supply of money would be allowed to increase by the amount that natural gas bills rise).
The CBO report determined that, compared with the NGPA status quo base case, complete wellhead price decontrol on January 1, 1984, would lower gross domestic production by 0.3 percent in that year, raise inflation by 1.1 percent, and reduce the fiscal year 1984 budget deficit by $3.6 billion. Since inflation could be expected to subside and output to increase beyond 1985, resulting in only a slight reduction in the federal deficit over the levels that would have occurred under NGPA, the report estimated a cumulative reduction of only $5 billion in the federal deficit from complete decontrol over the years 1984-1987.

Assuming acceleration of new gas decontrol to January 1, 1984, the CBO analysis estimated a $1.1 billion reduction in the fiscal year 1984 budget deficit -- the net effect of a $2.2 billion increase in federal revenues and royalties offset by $1.1 billion in higher federal expenditures on both non-discretionary and discretionary spending programs. Over fiscal years 1984-1987, however, the cumulative net budget effect of this option was projected to be insignificant, amounting to a deficit increase of $0.2 billion.
D. House Republican Task Force Recommends Accelerated, Total Decontrol of Natural Gas Prices.

1. On January 18, 1983 a House Republican Task Force on Congressional and Regulatory Reform, headed by Rep. Jerry Lewis (R-Ca.), issued a report recommending that Congress "clear the decks of all federal regulation over the wellhead price of natural gas."

2. The Task Force said the NGPA had widely distorted markets and prices because of increasing disparities between "old" and "new" gas, along with incentives to drill high-cost deep gas commanding deregulated prices well above market levels. As a result, industrial demand has fallen, and residential prices have risen. Residential prices have also been affected by pipelines' long-term contractual commitments to buy minimum quantities from producers.

3. Consumers can be expected to experience an increase in gas prices within the next few years whether the NGPA is allowed to run its course or is modified before 1985.

4. An argument can be made that immediate removal of all controls would precipitate a decline in the price for natural gas. Because "aberrations in the current law" have forced much lower-priced gas
to be shut in, "additional supplies of relatively lower-cost domestic gas flowing once prices are decontrolled should apply downward pressure on gas prices in the long run.

5. The Task Force warned against "quick-fix" solutions to stem price rises. Actions proposed in the 97th Congress, for example, included freezing natural gas prices for up to two years and abrogating long-term contracts with take-or-pay provisions.

6. But freezing gas prices would lock-in most of the expensive gas contracts which are just beginning to be renegotiated downward. At the same time, the Task Force stressed that Congressional adherence to the status quo would not help consumers.

7. "Permitting NGPA to run its course could create any number of uncertain and unpleasant results: Either the price will be higher than consumers would be willing to pay in a free market, or the price will be too low...and a shortage will be on the horizon."

8. Totally deregulating all wellhead gas prices earlier than 1985, when demand growth is not present, avoids the price shock that would occur
under NGPA in 1985. It also would bring all gas prices into balance with alternative fuel prices.

9. Complete decontrol would reduce the regulatory advantage interstate pipelines would have over other pipelines for obtaining more expensive, newly discovered gas, through the industry practice of averaging all gas costs into a single price.

E. Principal Legislative Proposals Involving Decontrol/Recontrol.

1. House

a. **H.R. 4** would amend the NGPA by restraining natural gas price increases through facilitating price responsiveness during periods when supplies exceed demand. Sponsor: Rep. Robert H. Michel (R.-Ill.).


**H.J.Res. 58.** Requiring the Federal Energy Regulatory Commission to commence a rule-making relating to natural gas pipeline rate

H.R. 131. To remove artificial impediments on the use of natural gas and to provide incentives for increased natural gas production. Sponsor: Rep. Phil Gramm (R.-Tex.).


H.R. 482. To ensure that rates charged by natural gas companies are market-sensitive. Sponsor: Rep. Beverly B. Byron (D.-Md.).

H.R. 583. To amend the NGPA to impose a moratorium on price increases. Sponsor: Rep. Dan Glickman (D.-Ks.).


H.R. 705. To clarify the definition of abuse for purposes of disqualifying certain cost pass throughs to distributors and consumers of

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H.R. 796. To provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users. Sponsor: Rep. Joseph M. Gaydos (D.-Pa.).


H.R. 873. To provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users. Sponsor: Rep. James L. Oberstar (D.-Minn.).


H.R. 910. To amend the NGPA to define abuse for purposes of determining whether pass-throughs of amounts paid to interstate pipelines for natural gas should be denied, and to deny pass-throughs to interstate pipelines for actions which are imprudent. Sponsor: Rep. Harold L. Volker (D.-Mo.).

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H.R. 1359. To amend NGPA to eliminate authority to increase ceiling prices of natural gas higher than the maximum lawful price if just and reasonable. Sponsor: Rep. Ike Skelton (D.-Mo.).

H.R. 1422. To amend NGPA to provide for continuation of price controls beyond 1985, to eliminate the monthly indexing of wellhead prices, to allow increases in such prices prior to the expiration of natural gas price controls only to the extent justified on the basis of increases in the cost of producing natural gas. Sponsor: Rep. Robert A. Young (D.-Mo.).

2. Senate


S. 291. To amend the NGPA to prohibit take-or-pay clauses. Sponsor: Sen. John C. Danforth (R.-Mo.).
S. 293. To amend the NGPA to prohibit increases in the wellhead prices of natural gas. Sponsor: Sen. Thomas Eagleton (D.-Mo.).

VI. OTHER CONSIDERATIONS

A. Windfall Profit Tax?

B. Contract Sanctity and Market Conditions
   1. Renegotiation.
   2. Indefinite Price Escalation.
   4. Take or Pay.
   5. Price Freeze.

   1. Kansas Natural Gas Price Protection Act upheld.
   2. Will the states create a patchwork regulatory pricing structure and new headaches?

VII. CONCLUSION

A. Surgical approach will not work.

B. Comprehensive changes are needed.

C. Given the depressed market, now may be the best time for immediate, total decontrol.
Jurisdiction: (1) Interstate and foreign commerce generally; (2) National energy policy generally; (3) Measures relating to the exploration, production, storage, supply, marketing, pricing and regulation of energy resources, including all fossils, fuels, solar energy, and other unconventional or renewable energy resources; (4) Measures relating to the conservation of energy resources; (5) Measures relating to the commercial application of energy technology; (6) Measures relating to energy information generally; (7) Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities) (B) the reliability and interstate transmission of and ratemaking for, all power, and (C) the siting of generation facilities, except the installation of interconnections between Government waterpower projects; (8) Interstate energy compacts; (9) Measures relating to the general management of the Department of Energy and the management and all functions of the Federal Energy Regulatory Commission; (10) Inland waterways; (11) Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto; (12) Regulations of interstate and foreign communications; (13) Securities and exchanges; (14) Consumer affairs and consumer protection; (15) Travel and tourism; (16) Public health and quarantine; (17) Health and health facilities, except health care supported by payroll deductions; (18) Biomedical research and development.

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John D. Dingell, Mich. (ex officio)

Republicans
Carlos J. Moorhead, Calif.
Don Ritter, Pa.
Dan Coats, Ind.
James T. Broyhill, N.C.
(ex officio)
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

Jurisdiction: Public health and quarantine; hospital construction; mental health and research; biomedical programs and health protection in general, including medicaid and national health insurance; foods and drugs; drug abuse; Clean Air Act and environmental protection in general, including the Safe Drinking Water Act; consumer product safety (the CPSC).

Chairman: Henry A. Waxman, Calif.

Democrats
James H. Scheuer, N.Y.
Thomas A. Luken, Ohio
Doug Walgren, Pa.
Barbara A. Mikulski, Md.
Richard C. Shelby, Ala.
Ron Wyden, Oreg.
Dennis E. Eckart, Ohio
Gerry Sikorski, Minn.
Richard L. Ottinger, N.Y.
Timothy E. Wirth, Colo.
Mickey Leland, Tex.
John D. Dingell, Mich. (ex officio)

Republicans
Edward R. Madigan, Ill.
William E. Dannemeyer, Calif.
Bob Whittaker, Kans.
Thomas J. Billey, Jr., Va.
Howard C. Nielson, Utah
James T. Broyhill, N.C. (ex officio)

SUBCOMMITTEE ON TELECOMMUNICATIONS, CONSUMER PROTECTION, AND FINANCE

Jurisdiction: Interstate and foreign telecommunications including, but not limited to, all telecommunication and information transmission by broadcast, radio, wire, microwave, satellite, or other mode; consumer protection in general; motor vehicle safety; securities and finance (the SEC).

Chairman: Timothy E. Wirth, Colo.

Democrats
Al Swift, Wash.
Cardiss Collins, Ill.
Albert Gore, Jr. Tenn.
Mickey Leland, Tex.
John Bryant
Jim Bates, Calif.
James H. Scheuer, N.Y.
Henry A. Waxman, Calif.

Republicans
Matthew J. Rinaldo, N.J.
Carlos J. Moorhead, Calif.
Thomas J. Tauke, Iowa
Michael G. Oxley, Ohio
James T. Broyhill, N.C. (ex officio)
SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS

Jurisdiction: Fossil energy and synthetic fuels regulation, commercialization and utilization; jurisdiction over all petroleum and natural gas issues; and all laws, programs, and government activities affecting such matters.

Chairman: Phillip R. Sharp, Ind.

Democrats
Mike Synar, Okla.
W. J. "Billy" Tauzin, La.
Ralph M. Hall, Tex.
Wayne Dowdy, Miss.
Bill Richardson, N. Mex.
Jim Slattery, Kans.
Thomas A. Luken, Ohio
Doug Walgren, Pa.
Richard C. Shelby, Ala.
Cardiss Collins, Ill.
John D. Dingell, Mich. (ex officio)

Republicans
Tom Corcoran, Ill.
William E. Dannemeyer, Calif.
Thomas J. Tauke, Iowa
Dan Coats, Ind.
Jack Fields, Tex.
James T. Broyhill, N.C. (ex officio)

SUBCOMMITTEE ON COMMERCE, TRANSPORTATION, AND TOURISM

Jurisdiction: Interstate and foreign commerce generally, the regulation of trade (the FTC); regulation of travel and tourism, and all matters relating to inland waterways, railroads, railroad retirement, and railway labor; solid waste, hazardous waste, and toxic substances; noise pollution controls; insurance; and time.

Chairman: James J. Fiorio, N.J.

Democrats
Barbara A. Mikulski, Md.
W.J. "Billy" Tauzin, La.
Dennis E. Eckart, Ohio
Wayne Dowdy, Miss.
Bill Richardson, N. Mex.
John D. Dingell, Mich. (ex officio)

Republicans
Norman F. Lent, N.Y.
Don Ritter, Pa.
James T. Broyhill, N.C. (ex officio)
Jurisdiction: (1) Energy policy; (2) Energy regulation and conservation; (3) Energy research and development; (4) Solar energy systems; (5) Nonmilitary development nuclear energy; (6) Naval petroleum reserves in Alaska; (7) Oil and gas production and distribution; (8) Extraction of minerals from oceans and Outer Continental Shelf lands; (9) Energy-related aspects of deepwater ports; (10) hydroelectric power, irrigation and reclamation; (11) Coal production, distribution, and utilization; (12) Public lands and forests, including farming and grazing thereon, and mineral extraction therefrom; (13) National parks, recreation areas, wilderness areas, wild and scenic rivers, historical sites, military parks and battlefields, and, on the public domain, preservation of prehistoric ruins and objects of interest; (14) Mining, mineral lands mining claims, and mineral conservation; (15) Mining education and research; (16) Territorial possessions of the United States, including trusteeship. In addition, the committee is mandated to study and review matters relating to energy and resources development, and to report on these matters periodically.

Chairman: James McClure, (Idaho)

Republicans

Mark Hatfield (Ore.)
Lowell Weicker, Jr. (Conn.)
Pete Domenici (N.M.)
Malcolm Wallop (Wyo.)
John Warner (Va.)
Frank Murkowski (Alaska)
Don Nickles (Oklahoma)
John Heinz (Pa.)
Chick Hecht (Nev.)*

Democrats

J. Bennett Johnston (La.)
Henry Jackson (Wash.)
Dale Bumper (Ark.)
Wendell Ford (Ky.)
Howard Metzenbaum (Ohio)
Spark Matsunaga (Hawaii)
John Melcher (Mont.)
Paul Tsongas (Mass.)
Bill Bradley (N.J.)
SUBCOMMITTEES OF THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, 98TH CONGRESS

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Jurisdiction: Federal energy conservation programs, energy information commercialization of new technologies (e.g. wind, solar, ocean, thermal, energy conversion), deepwater ports, liquified natural gas projects, low head hydro. OCS (Outer Continental Shelf) leasing, deep seabed mining.

Chairman: Lowell P. Weicker, Jr. (Conn.)

Republicans
Mark O. Hatfield (Ore.)
John H. Chafee (R.I.)
John W. Warner (Va.)
John Heinz (Pa.)

Democrats
Spark M. Matsunaga (Hawaii)
Howard M. Metzenbaum (Ohio)
Paul E. Tsongas (Miss.)
Bill Bradley (N.J.)

SUBCOMMITTEE ON ENERGY REGULATION

Jurisdiction: Nuclear insurance and facilities siting, pipelines, coal conversion, regulatory functions of the Economic Regulatory Administration (except emergency petroleum allocation). FERC (Federal Energy Regulatory Commission), intergovernmental relations, refinery policy, PIFUA and ESECA amendments, crude oil and petroleum product pricing, gasoline rationing.

Chairman: Frank H. Murkowski, (Alaska)

Republicans
Lowell P. Weicker, Jr. (Conn.)
Don Nickles (Okla.)
Pete V. Domenici (N.M.)
John H. Chafee (R.I.)

Democrats
Howard M. Metzenbaum (Ohio)
Wendell H. Ford (Ky.)
John Melcher (Mont.)
Bill Bradley (N.J.)
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Jurisdiction: Energy and nonfuel mineral resources, Federal mineral leasing, mining policy and general mining laws, surface mining, petroleum reserves, Strategic Petroleum Reserves, coal production, distribution, and utilization, oil and gas production and distribution, mining education and research, mineral extraction from public lands, mining claims and mineral conservation.

Chairman: John W. Warner, (Va.)

Republicans

John Heinz (Pa.)
Malcolm Wallop (Wyo.)
Frank H. Murkowski (Alaska)
Chic Hecht (Nev.)

Democrats

John Melcher (Mont.)
Dale Bumpers (Ark.)
Spark M. Matsunaga (Hawaii)
Bill Bradley (N.J.)

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Jurisdiction: Nuclear R&D coal and synfuels R&D (except nonnuclear commercialization projects), nuclear fuel cycle policy including uranium resources; Synthetic Fuels Corporation; new technologies R&D (e.g., solar, ocean, thermal, energy conversion, magnetic hydrodynamics)

Chairman: Pete V. Domenici, (N.M.)

Republicans

John W. Warner (Va.)
John Heinz, (Pa.)
Lowell P. Weicker, Jr. (Conn.)
Don Nickles (Okla.)

Democrats

Wendell H. Ford (Ky.)
Henry M. Jackson (Wash.)
Dale Bumpers (Ark.)
Paul E. Tsongas (Mass.)

SUBCOMMITTEE ON WATER AND POWER

Jurisdiction: Irrigation, reclamation projects, power marketing administrations (e.g. TVA, Bonneville, Western Area, Southeastern Power Administrations), energy development impacts on water resources, small power producers, hydroelectric power.

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Chairman: Don Nickles, (Okla.)

Republicans
Mark O. Hatfield (Ore.)
Malcolm Wallop (Wyo.)
Frank H. Murkowski (Alaska)
Chic Hecht (Nev.)

Democrats
Paul E. Tsongas (Mass.)
Henry M. Jackson (Wash.)
Wendell H. Ford (Ky.)
Howard M. Metzenbaum (Ohio)

SUBCOMMITTEE ON PUBLIC LANDS & RESERVED WATER

Jurisdiction: BLM (Bureau of Land Management) lands (timber, range, wildlife and recreation management), national forest lands, parks, wilderness, wild and scenic rivers, Alaska Native Claims Settlement Act, reserved water rights, MX missile land withdrawal, national recreation areas, national monuments, historic sites, military parks and battlefields, National Trail System, Land and Water Conservation Fund, creation of wildlife refuges on public lands, historic preservation, renewable resources, and on the public domain, preservation of prehistoric ruins and objects of interest.

Chairman: Malcolm Wallop, (Wyo.)

Republicans
Mark O. Hatfield (Ore.)
Chic Hecht (Nev.)
John H. Chafee (R.I.)
Pete V. Domenici (N.M.)

Democrats
Dale Bumpers (Ark)
Henry M. Jackson (Wash.)
Spark M. Matsunaga (Hawaii)
John Melcher (Mont.)

James A. McClure (Idaho) and J. Bennett Johnston (La.) are Ex Officio Members of all Subcommittees.
A BILL
To amend the Natural Gas Policy Act of 1978, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,
That (a) subtitle A of title I of the Natural Gas Policy Act of
1978 is amended by adding at the end thereof the following:
"SEC. 111. PRICE FREEZE ON NATURAL GAS.
"(a) PRICE FREEZE.—Notwithstanding any other pro-
vision of law, the maximum lawful price applicable to any
category of first sale of any natural gas in effect on October
1, 1982, shall continue to be the maximum lawful price for
that gas for the period starting October 1, 1982, through
January 1, 1985. Any first sale of natural gas which has a
price lower than the maximum lawful price in effect on October 1, 1982, may increase by the lesser of the rate provided in the contract for such sale or the annual inflation adjustment factor as determined in section 101(a)(1) but may not exceed the maximum lawful price in effect on October 1, 1982, during the freeze period.

"(b) Price Freeze on Natural Gas not Covered by Wellhead Price Controls.—Notwithstanding any other provision of law, the maximum lawful price for the period commencing October 1, 1982, and ending January 1, 1985, for any first sale of any category of natural gas for which a ceiling price is not specified on October 1, 1982, under this title and from a well the surface drilling of which began by October 1, 1982, shall be the contract price specified for deliveries of such natural gas on October 1, 1982, or if there was no contract price specified for deliveries of such natural gas on such date, the maximum lawful price shall be the price paid for comparable natural gas.

"(c) Expiration of Price Freeze.—Following the expiration of the price freeze imposed by this section, the maximum lawful price for any first sale of natural gas for which a ceiling price is specified on October 1, 1982, shall increase from the October 1, 1982, level at the rate specified by this Act for that category of natural gas."
(b) The table of contents for subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

"Sec. 111. Price freeze on natural gas."

SEC. 2. (a) Section 121 of subtitle B of title I of the Natural Gas Policy Act of 1978 is amended—

(1) in the matter before clause (1) of subsection (a) by striking out "January 1, 1985" and inserting in lieu thereof "January 1, 1987"; and

(2) in subsection (c), by striking out "July 1, 1987" and inserting in lieu thereof "July 1, 1989".

(b) Section 122 of such Act is amended—

(1) by striking out subsection (b)(1) and inserting in lieu thereof the following:

"(1) may not take effect earlier than July 1, 1987, nor later than June 30, 1989; and"; and

(2) in subsection (c), by striking out "May 31, 1985" both places it appears and inserting in lieu thereof "May 31, 1987".

(c) Section 123(a) of such Act is amended by striking out "On or before January 1, 1984, and on or before January 1, 1985," and inserting in lieu thereof "On or before January 1, 1986, and on or before January 1, 1987,".

SEC. 3. (a) Subsection (c)(2) of section 601 of title VI of the Natural Gas Policy Act of 1978 is amended (1) by inserting "imprudence," immediately after "abuse," and (2) by
adding at the end of subsection (c)(2) the following: "Whenever the Commission determines, upon its own motion or the petition of any party, that—

"(i)(I) Any amount paid with respect to any purchase of natural gas is excessive due to fraud, abuse, imprudence, or similar grounds under this paragraph, or

"(II) Any rate or charge collected by any natural gas company in connection with any transportation or sale of natural gas is unreasonable or unjust under section 4 or 5 of the Natural Gas Act; and

"(ii) such rate, charge, or amount paid is the result of any contract between a pipeline company and a producer which contains a provision which the Commission determines prevents the pipeline company from responding to the demands of customers or other market forces by requiring the purchaser to pay for a minimum daily contract quantity of gas whether or not such gas is taken,

the Commission shall have the authority to take such appropriate action as it may deem necessary including the rescission, annulment, or modification of such contract provisions."

(b) The Federal Energy Regulatory Commission shall take such action as may be necessary, within the ninety-day
period following the date of the enactment of this Act, to devise and put into effect an incentive rate of return applicable to proceedings under the Natural Gas Act to stimulate the purchase of the maximum amount of lower cost gas which is consistent with gas availability and the need for a steady supply.
A BILL

To clarify the definition of abuse in the Natural Gas Policy Act of 1978.

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 2 of the Natural Gas Policy Act of 1978 (15
4  U.S.C. 3301) is amended by adding at the end thereof the
5  following:

6  "(38) ABUSE.—The term ‘abuse’ is not limited to
7  misrepresentation but also includes imprudence on the
8  part of the pipeline company and any pipeline compa-
9  ny-producer contract which materially prevents the
10  pipeline from responding to changes in customer
11  demand or other market forces. A rebuttable presump-
tion arises that a contract materially prevents a pipeline from responding to changes in customer demand or other market forces if the following contract clauses are found in a producer-pipeline contract:

"(A) Take-or-pay clause which commits the purchaser to pay for a minimum daily contract quantity of gas greater than 70 percent of daily contract quantity on an annual basis whether or not such gas is taken.

"(B) Indefinite price escalator or redetermination clause which is not tied to a recognized and approved economic indicator.

"(C) Most favored nation clause where the purchase price paid by any pipeline to a producer is set by the highest price in a particular production area.

Such a rebuttable presumption also arises if a contract does not include a market-out-clause which allows the buyer to escape the contract or to nominate a new lower price if the gas is not marketable at the contract price.".
IN THE SENATE OF THE UNITED STATES

January 31 (legislative day, January 25), 1983

Mr. Danforth (for himself, Mr. Eagleton, and Mr. Sarbanes) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Natural Gas Policy Act of 1978 to prohibit take-or-pay clauses, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 That subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

3 "SEC. 112. SUSPENSION OF CERTAIN PRICE RELATED CONTRACTUAL PROVISIONS.

4 "(a) Notwithstanding any other provision of law and except as provided in subsection (b), beginning on the date of enactment of this section, any provision of any contract for the first sale of natural gas which—
“(1) has the effect of requiring the purchaser to make payment to the seller if gas volumes tendered by the seller under the contract are not taken by the purchaser; or

“(2) provides for an indefinite price escalator clause as defined in section 105(b)(3)(B) of this Act, shall be suspended and of no force or effect.

(b) Upon application made by purchaser or seller, the Commission may, after notice and, when the Commission deems it appropriate, an evidentiary hearing, by order restate such contractual arrangements, or any modification thereof found by the Commission to be consistent with the public interest, to become effective if the Commission finds—

“(1) that such contractual arrangements were made before the date of enactment of this section; and

“(2) that permitting such contractual arrangements, or a modification approved by the Commission, to become effective is necessary either—

“(A) to prevent a default by seller under a loan agreement or debt instrument in effect on the date of enactment of this section; or

“(B) because of field drainage requirements or similar reasons.
Any reinstatement or modification under clause (2) shall be granted only to the extent necessary to satisfy the requirements of such clause.”.

(b) The table of contents for subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

“Sec. 112. Suspension of Certain Price Related Contractual Provisions.”.

Sec. 2. Subsection (c)(2) of section 601 of title VI of the Natural Gas Policy Act of 1978 is amended by inserting “imprudence (including failure to exercise all due prudence in securing the least-cost mix of gas),” immediately after “abuse,”.
To amend the Natural Gas Policy Act of 1978 to prohibit increases in the wellhead prices of natural gas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31 (legislative day, JANUARY 25), 1983

Mr. Eagleton (for himself, Mr. Danforth, and Mr. Sarbanes) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Natural Gas Policy Act of 1978 to prohibit increases in the wellhead prices of natural gas, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 That (a) subtitle A of title I of the Natural Gas Policy Act of
4 1978 is amended by adding at the end thereof the following:
5 "SEC. 111. PRICE FREEZE ON NATURAL GAS; REPORT BY
6 COMPTROLLER GENERAL CONCERNING PROF-
7 ITABILITY OF NATURAL GAS PRODUCTION.
8 "(a) MAXIMUM LAWFUL PRICES.—Notwithstanding
9 any other provision of law, the maximum lawful price appli-
cable to the first sale of natural gas from January 31, 1983, through December 31, 1984, shall be the maximum lawful price applicable to such sale on August 31, 1982, under this Act. In the case of any first sale of natural gas from a well the surface drilling of which began prior to January 31, 1983, and for which there was no applicable maximum lawful price on August 31, 1982, solely by reason of the elimination of price controls pursuant to subtitle B of title I of this Act, the maximum lawful price for such sale from January 31, 1983, through December 31, 1984, shall be the contract price specified for deliveries of such natural gas on August 31, 1982: Provided, however, That if there was no contract price specified for deliveries of such natural gas on such date, the maximum lawful price shall be the average of the prices paid on August 31, 1982, for deliveries of natural gas from the three nearest wells by surface location for which there similarly was no applicable maximum lawful price on August 31, 1982.

"(b) Expiration of Price Freeze.—The maximum lawful price applicable to the first sale of natural gas on August 31, 1982, shall be increased for any month beginning on or after January 1, 1985 at the rate specified for such gas by this Act."
(b)(1) Section 121(a) of the Natural Gas Policy Act of 1978 is amended by striking out "January 1, 1985" and inserting in lieu thereof "January 1, 1987".

(2) Section 121(c) of such Act is amended by striking out "July 1, 1987" and inserting in lieu thereof "July 1, 1989".

(c)(1) Section 122(b) of the Natural Gas Policy Act of 1978 is amended by striking out "July 1, 1985" and inserting in lieu thereof "July 1, 1987".

(2) Section 122(b) is further amended by striking out "June 30, 1987" and inserting in lieu thereof "June 30, 1989".

(3) Section 121(c) of such Act is amended by striking out "May 1, 1985" wherever it appears and inserting in lieu thereof "May 1, 1987".

(d)(1) Section 123 of the Natural Gas Policy Act of 1978 is amended by striking out "July 1, 1984" and inserting in lieu thereof "July 1, 1986".

(2) Section 123 is further amended by striking out "January 1, 1985" and inserting in lieu thereof "January 1, 1987".
98th Congress  
1st Session  

H.R. 4

To amend the Natural Gas Policy Act of 1978 to restrain natural gas price increases by facilitating price responsiveness during periods when supplies exceed demand, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES  

January 3, 1983

Mr. Michel introduced the following bill, which was referred to the Committee on Energy and Commerce

A BILL

To amend the Natural Gas Policy Act of 1978 to restrain natural gas price increases by facilitating price responsiveness during periods when supplies exceed demand, and for other purposes.

1. Be it enacted by the Senate and House of Representa-
2. tives of the United States of America in Congress assembled,
3. SHORT TITLE
4. SECTION 1. This Act may be cited as the “Natural Gas
5. Marketing Improvements Act of 1983”.

FINDINGS AND PURPOSES

Sec. 2. (a) The Congress finds—

(1) the present market for natural gas is seriously distorted;

(2) the demand for oil and natural gas has been declining in the United States in response to conservation and to fuel switching practices induced by high prices;

(3) the price of oil has declined steadily as its demand has fallen;

(4) the price of natural gas, however, is rising sharply, notwithstanding that demand for natural gas declines with every price increase;

(5) under the rigid structure resulting from Federal laws and certain industry contracting practices, the various segments of the natural gas industry are unable to respond to the short-term oversupply of natural gas by reducing its price and are, instead, shutting in and even flaring certain low-priced sources of natural gas;

(6) natural gas pipelines are acquiring supplies of natural gas at prices higher than the market can support, and which, under the Natural Gas Policy Act of 1978, are automatically passed through to local natural gas distribution companies and eventually to consum-
ers, thereby overriding the natural resistance of the market;

(7) producers of low-priced natural gas may be forced, out of necessity, to shut-in or even flare that natural gas in cases in which the natural gas was contracted for sale but the purchaser does not accept delivery, even though other purchasers might be available to the seller and the original purchaser has adequate capacity to transport the natural gas to such other purchasers;

(8) without both (A) the contract right to reduce, from time to time as demand declines, the obligation under natural gas purchase contracts to pay for certain high-priced natural gas and (B) the incentive to exercise such a contract right, pipelines may well continue to pay overly high prices since such high prices will be passed through to its customers pursuant to the terms of such Act; and

(9) therefore, the Natural Gas Policy Act of 1978 should be amended to provide pipelines with the ability to reduce their obligations for certain high-priced natural gas, to authorize the Federal Energy Regulatory Commission to review the exercise of such a contract right by pipelines in various natural gas rate proceedings, and to provide producers the ability to transport
natural gas to other purchasers whenever pipelines do
not accept delivery under market-out clauses.

(b) The purposes of this Act are—

(1) to provide a limited market-out clause to every
natural gas pipeline company so that every pipeline has
the legal ability to reduce the deliveries of high-priced
natural gas down to 50 per centum of contract volume
whenever the pipeline has more supply than demand;

(2) to require that any pipeline wishing to exercise
such contract right shall exercise it first against its
highest price source of natural gas and any contracts it
may have for supplies with producing companies affili­
ated with the pipeline company;

(3) to require the Federal Energy Regulatory
Commission to take into account the use, or nonuse, of
the limited-market out clause by each pipeline as an
element of various natural gas rate proceedings under
the Natural Gas Act; and

(4) to provide a producer the ability to transport
natural gas to another purchaser in any case in which
the pipeline that had contracted for that natural gas
does not accept delivery because its supply exceeds its
demand.
NATURAL GAS CONTRACTS DEEMED TO INCLUDE ADJUSTMENT CLAUSE TO REDUCE PURCHASE REQUIREMENTS

Sec. 3. (a) Title III of the Natural Gas Policy Act of 1978 is amended by inserting after section 315 the following new section:

"SEC. 316. NATURAL GAS CONTRACTS DEEMED TO INCLUDE ADJUSTMENT CLAUSE TO REDUCE PURCHASE REQUIREMENTS.

"(a) Inclusion.—Any contract for the sale of natural gas to any pipeline shall be deemed to include the contract provisions set forth in subsection (b), unless otherwise expressly provided in any such contract entered into or renegotiated after the date of the enactment of this section. Such provisions shall be in addition to, and not in lieu of, any other provision of such contract.

"(b) Purchase Requirement Adjustment Clause.—The contract provisions deemed included in any contract described in subsection (a) are as follows:

"(1) General Rule.—The purchaser may, without obligation to pay, exercise a right not to accept delivery of any portion of the volumes of natural gas the purchaser has contracted to accept if the purchaser has determined he cannot market the total volume of natural gas contracted for."
“(2) AMOUNT OF REDUCTION.—A purchaser may not reduce, pursuant to these contract provisions, the volume the purchaser accepts delivery of below a level equal to 50 per centum of the volume the purchaser contracted to take delivery of under the contract (without regard to any previous reduction under these contract provisions).

“(3) HIGHEST PRICE GAS REDUCED FIRST.—Except as provided in paragraph (4), the purchaser may not reduce under these contract provisions the volume he accepts delivery of if he has not exercised his right under these provisions to reduce (to the maximum extent permitted under paragraph (2)) deliveries of natural gas he has contracted to take delivery of at a higher price under any other contract.

“(4) AFFILIATED PRODUCERS.—The purchaser may not reduce under these contract provisions the volume he has contracted to take delivery of if he has not exercised his right under these provisions to reduce (to the maximum extent permitted under paragraph (2)) deliveries of natural gas he has contracted to take at the same or a higher price under any other contract between the purchaser and any other person who is an affiliate of the purchaser.
“(5) Contracted to take defined.—For purposes of these contract provisions, the term ‘contracted to take’ refers to the volume of natural gas for which the purchaser has contracted to take delivery under a contract (whether or not the purchaser is obligated under the contract to pay for any lesser volume in the event delivery is not taken).

“(6) Effect of take-or-pay and minimum-bill clauses.—Any provision of any contract shall not apply to the extent it requires a purchaser to pay any fee or other charge with respect to any natural gas for which delivery is not taken pursuant to these contract provisions.

“(7) Limitation on contracting for new supplies.—Any purchaser who has exercised his right under these contract provisions to reduce the volumes of natural gas he is obligated to take shall not accept delivery during the period of such reduction of any other volumes of natural gas at a price that is equal to or higher than the price of the natural gas involved in the reduction if such delivery is under any contract entered into or renegotiated after the date of the exercise of such right.

“(8) Contracts covering more than one category of natural gas.—Any contract estab-
lishing two or more categories of natural gas for purposes of pricing the natural gas delivered under the contract shall be treated as separate contracts for each such category.

“(c) Bar Against Nonprice Discrimination.—Nothing in this section shall be construed as allowing any pipeline to discriminate against any one or class of producers or other sellers of natural gas on any basis other than the price of natural gas.

“(d) Commission To Consider Use Or Nonuse Of Contract Clause In Certain Proceedings.—Notwithstanding section 601(c) or any other provision of this Act or the Natural Gas Act, the Commission shall take into account the use of or failure to use the contract provisions available by this section by any pipeline under the jurisdiction of the Commission as an element of—

“(1) any purchase gas adjustment proceeding under the Natural Gas Act involving that pipeline, and

“(2) any general rate proceeding under section 4 or 5 of the Natural Gas Act involving that pipeline.”.

(b) The table of contents for such Act is amended by adding after the item relating to section 315 the following new item:

“Sec. 316. Natural gas contracts deemed to include adjustment clause to reduce purchase requirements.”.
NATURAL GAS CONTRACTS DEEMED TO INCLUDE TRANSPORTATION OBLIGATION TO SECONDARY PURCHASERS

Sec. 4. (a) Title III of the Natural Gas Policy Act of 1978 is amended by inserting after section 316 (as added by section 3) the following new section:

"SEC. 317. NATURAL GAS CONTRACTS DEEMED TO INCLUDE TRANSPORTATION OBLIGATION TO SECONDARY PURCHASERS.

"(a) INCLUSION.—Any contract for the sale of natural gas to any pipeline shall be deemed to include the contract provisions set forth in subsection (b), unless otherwise expressly provided in any such contract entered into or renegotiated after the date of the enactment of this section.

"(b) TRANSPORTATION OBLIGATION CLAUSE.—The contract provisions deemed included in any contract described in subsection (a) are as follows:

"(1) GENERAL RULE.—Any purchaser who has exercised his right under any contract provision (including the contract provisions provided under section 316) to reduce the volumes of natural gas he is obligated to take delivery of on the grounds that the purchaser cannot market the total volumes he is so obligated for shall provide, on behalf of the seller, transportation of any of the volume of natural gas—"
“(A) which is involved in the reduction,

“(B) which is resold by the seller to another purchaser, and

“(C) which the purchaser would be required to pay for in the absence of the exercise of such contract provision (whether or not delivery is taken).

“(2) Terms and Conditions.—The terms and conditions of such transportation shall be in accordance with regulations prescribed by the Commission.

“(c) Consideration.—The consideration for any transportation provided under the contract provisions provided by this section shall be at $.05 per million Btu's plus the cost of such transportation, as established by the appropriate State or Federal regulatory body, unless the Commission has established, by rule, a different rate as just compensation for such transportation. No amount of such consideration shall be required to be credited and flowed back to the customers of such pipeline.”.

(b) The table of contents for such Act is amended by adding after the item relating to section 316 the following new item:

“Sec. 317. Natural gas contracts deemed to include transportation obligation to secondary purchasers.”.
Sec. 5. The amendments made by this Act shall take effect on the first day of the first calendar month beginning more than fifteen days after the date of the enactment of this Act and shall apply in the case of any contract, whether entered into before, on, or after such date.
CONCURRENT RESOLUTION

Expressing the sense of the Congress on natural gas prices.

Whereas natural gas prices have increased approximately 700 per centum in the last ten years;

Whereas exorbitant natural gas prices have contributed to the Nation's severe economic crisis and the recordbreaking unemployment level of twelve million people;

Whereas an estimated three hundred thousand households in 1982 were shut off from heat and millions of others are finding it impossible to pay skyrocketing natural gas bills;

Whereas constantly rising natural gas prices have created a severe burden upon churches, schools, institutions, and small business, causing direct and indirect cutbacks in services to communities;

Whereas the decontrol of natural gas will add $2.5 billion to farm production expenses over the next three years;
Whereas President Reagan continues to advocate acceleration of
natural gas decontrol which would send prices soaring even
higher and decrease Federal moneys for energy assistance
and weatherization programs; and

Whereas Congress has the responsibility to see to it that we
freeze prices, not people: Now, therefore, be it

Resolved by the House of Representatives (the Senate
concurring), That it is the sense of the Congress that com-
prehensive, coordinated efforts by appropriate legislative, ad-
ministrative, and contracting entities should be undertaken to
assure—

(1) that the decontrol of natural gas wellhead
prices currently scheduled in 1985 does not occur, and
no administrative action is taken that has the effect of
decontrolling such prices;

(2) that wellhead price controls be made applica-
table to categories of natural gas which are exempt from
control;

(3) that natural gas wellhead prices are reduced to
the extent such prices are artificially high;

(4) that the use of contract provisions is eliminat-
ed in cases in which contract provisions, such as take-
or-pay clauses and indefinite price escalators, artificial-
ly increase natural gas prices or restrict prudent deci-
sionmaking in the marketplace;
(5) that pipelines and other natural gas companies which acquire natural gas for resale purchase the least expensive gas available, and justify increases in the prices they charge rather than pass through such increases automatically;

(6) that additional assistance is provided to individuals who are unable to pay the costs of residential heating; and

(7) that weatherization activities are increased in order to reduce the costs of residential heating and to conserve energy.
Expressing the sense of the House of Representatives with respect to the acceleration of wellhead natural gas prices.

Whereas accelerated decontrol of natural gas prices at the wellhead would have a drastic effect on the Nation's economy, deepening the current recession and increasing inflation;

Whereas such decontrol would result in the loss of hundreds of thousands of jobs;

Whereas such decontrol would cost consumers tens of billions of dollars, with a disproportionate impact on the elderly and others on fixed incomes; and

Whereas such decontrol would adversely affect major sectors of the economy, including agriculture, public services, and small business: Now, therefore, be it
Resolved, That it is the sense of the House of Representa-
tives that the Federal Energy Regulatory Commission
should take no action to accelerate the decontrol of wellhead
natural gas prices.
H. J. RES. 58

Requiring the Federal Energy Regulatory Commission to commence a rulemaking relating to natural gas pipeline rate designs, and to report its findings, conclusions, and recommendations.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1983

Mr. DIXON introduced the following joint resolution; which was referred to the Committee on Energy and Commerce

JOINT RESOLUTION

Requiring the Federal Energy Regulatory Commission to commence a rulemaking relating to natural gas pipeline rate designs, and to report its findings, conclusions, and recommendations.

Whereas natural gas is an essential fuel used by many in the preservation of health and life itself;

Whereas the cost of natural gas has risen dramatically over the last several years;

Whereas continued increases in natural gas prices will cause severe economic dislocations and hardships and will adversely affect commerce;

Whereas interstate natural gas pipeline companies (hereinafter in this joint resolution referred to as “pipeline companies”) are acquiring supplies of certain categories of natural gas at
prices in excess of what the end-use market would support if such supplies were sold separately and not on a rolled-in basis;

Whereas under current regulations, local natural gas distribution companies (hereinafter in this joint resolution referred to as “local distribution companies”) are required to pay for high-cost natural gas when the price of such gas is rolled-in with the price of other gas;

Whereas it is essential that local distribution companies be given the option not to purchase such high-cost natural gas so that the local distribution companies can help protect their residential and other customers from continuing increases in utility bills; and

Whereas under the Natural Gas Act and the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission (hereinafter in this joint resolution referred to as the “Commission”) through its authority over pipeline companies’ tariffs and service agreements, has an obligation to protect the public interest, including the interest of natural gas rate-payers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That within sixty days after the date of the adoption of this joint resolution, the Commission shall commence a rulemaking relating to natural gas pipeline rate designs. In the course of such rulemaking, the Commission shall consider alternatives to insure that the market clearing prices in the areas of local distribution companies are reflected in such rate designs.

Such alternatives shall include the following:
(1) Procedures to preclude pipeline companies from rolling-in the price of high-cost natural gas.

(2) Establishment of a market clearing price standard, with reference to an appropriate alternate energy price, to determine what is to be considered high-cost natural gas.

(3) Adjustment of service agreements between pipeline companies and local distribution companies to—

(A) allow local distribution companies to purchase natural gas which meets the market clearing price standard, and

(B) give local distribution companies the flexibility to purchase high-cost natural gas.

(4) Action to require pipeline companies to exercise market-out rights in any contract for the purchase of natural gas upon a showing that the contract price would cause severe distortion and hardship in any relevant natural gas market.

The Commission, within one hundred and eighty days after the date of the commencement of this rulemaking, shall report its findings and conclusions to the President of the United States and to the Committee on Energy and Commerce of the House of Representatives and the Committee on
1 Energy and Natural Resources of the Senate, together with
2 any recommendations for legislation.
IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1983

Mr. Gramm introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To remove artificial impediments on the use of natural gas and to provide incentives for increased natural gas production.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Natural Gas Production, Utilization, and Conservation Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
TITLE I—REMOVAL OF ARTIFICIAL IMPEDIMENTS ON NATURAL GAS USAGE

Sec. 102. Termination of incremental pricing requirements under the Natural Gas Policy Act of 1978.

TITLE II—INCENTIVES FOR INCREASED NATURAL GAS PRODUCTION

Sec. 201. Deregulation of natural gas produced from wells drilled on or after January 1, 1983.
Sec. 202. Ceiling prices for certain other natural gas based on projected market prices.
Sec. 203. Imported natural gas.
Sec. 204. Decontrol of all natural gas.
Sec. 205. Repeal of provisions allowing reimposition of price controls.
Sec. 206. Deregulation of committed or dedicated natural gas.
Sec. 207. Elimination of required minimum contract duration and required offers and rights of first refusal.
Sec. 208. Cost passthrough allowed except where fraud involved.
Sec. 209. Certification for special pricing provisions.

TITLE III—REMOVAL OF ARTIFICIAL IMPEDIMENTS TO NATURAL GAS SALES

Sec. 301. Authorization of certain sales and transportation.
Sec. 302. Emergency authority applicable to interstate and intrastate pipelines.
Sec. 303. Clauses prohibiting certain sales, transportation, or commingling which do not affect jurisdiction.

1 TITLE I—REMOVAL OF ARTIFICIAL IMPEDIMENTS ON NATURAL GAS USAGE


6 (a) REPEALER.—The Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 and following) is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect 60 days after the date of the enactment of this Act. Such repeal shall not apply with respect to power-
plants or installations for which proposed or final prohibition
orders have been issued under title II or III of such Act
before such effective date. The obligations, rights, and au-
thorities applicable with respect to such orders shall continue
to apply (including the authority of the Secretary of Energy
to make final any proposed prohibition order).

SEC. 102. TERMINATION OF INCREMENTAL PRICING REQUIRE-
MENTS UNDER THE NATURAL GAS POLICY ACT
OF 1978.

(a) REPEALER.—Title II of the Natural Gas Policy Act
of 1978 (15 U.S.C. 3341-3348) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 121(b) of such Act (15 U.S.C.
3331(b)) is amended—

(A) by striking out “Effective beginning on
the effective date of the incremental pricing rule
required under section 201, the” and inserting in
lieu thereof “The”; and

(B) by striking out “shall cease to apply”
and inserting in lieu thereof “shall not apply”.

(2) Section 502 of such Act (15 U.S.C. 3412) is
amended by striking out subsection (d).

(3) Section 504(b) of such Act (15 U.S.C.
3414(b)) is amended—
(A) by striking out paragraph (3) and redesignating subsequent paragraphs accordingly;

(B) in paragraph (1), by striking out “paragraphs (2) and (3)” and inserting in lieu thereof “paragraph (2)”; and

(C) in paragraph (3) (as redesignated), by striking out “paragraph (1), (2), or (3)” and inserting in lieu thereof “paragraph (1) or (2)”.

(4) Section 506 of such Act (15 U.S.C. 3416) is amended by striking out subsection (d).

(5) Section 507 of such Act (15 U.S.C. 3417) is repealed.

(6) Section 601(c)(2) of such Act (15 U.S.C. 3431(c)(2)) is amended—

(A) by striking out “—(A)” and inserting in lieu thereof a comma;

(B) by striking out “and” at the end of former subparagraph (A); and

(C) by striking out “(B) such recovery is not inconsistent with any requirement of any rule under section 201 (including any amendment under section 202),”.

(7) The table of contents for such Act is amended by striking out the items relating to title II and the item relating to section 507.
(c) REMEDIAL ACTION.—Effective beginning on the date of the enactment of this section, each interstate pipeline and local distribution company which was formerly subject to the provisions of title II of the Natural Gas Policy Act of 1978 shall take the following actions:

(1) Each such interstate pipeline shall clear both its unrecovered incremental gas costs account and its unrecovered incremental surcharges account of all amounts accumulated therein by—

(A) transferring, as of such date of enactment, all such amounts to its unrecovered purchased gas costs account,

(B) proceeding to collect all such amounts in due course pursuant to regulations prescribed by the Federal Energy Regulatory Commission (hereinafter in this subsection referred to as the “Commission”), and

(C) doing all such other acts as the Commission may prescribe for the purpose of effecting the repeal of title II of such Act as of the date of the enactment of this Act.

(2) Each such local distribution company shall clear both the unrecovered incremental gas costs account and the unrecovered incremental surcharges account of all amounts accumulated therein by—
(A) transferring, as of such date of enact-
ment, all such amounts to the account to which
the company's purchased gas costs are ordinarily
debited, and then

(B) proceeding to collect all such amounts in
due course, whether pursuant to pertinent regula-
tions prescribed therefor by the regulatory body
having jurisdiction over such company's rates and
charges, or otherwise.

(d) No Further Incremental Pricing Permit-
ted.—Effective beginning on the date of the enactment of
this Act, no interstate pipeline or distribution company which
was formerly subject to the provisions of title II of such Act
shall—

(1) debit any amount to any unrecovered incre-
mental gas costs account;

(2) debit any amount to any unrecovered incre-
mental surcharges account;

(3) bill incremental pricing surcharges to any cus-
tomer under the authority of such provisions; or

(4) otherwise comply with the provisions of part
282 of title 18 of the Code of Federal Regulations or
other regulatory provisions which implement title II of
such Act.

(e) Definitions.—For purposes of this section—
the term "unrecovered incremental gas costs account" means the account designated as Account 192.1 of the Uniform System of Accounts Prescribed for Natural Gas Companies, parts 201 and 204 of title 18 of the Code of Federal Regulations;

(2) the term "unrecovered incremental surcharges account" means the account designated as Account 192.2 of the Uniform System of Accounts Prescribed for Natural Gas Companies, parts 201 and 204 of such title 18; and

(3) the term "unrecovered purchased gas costs account" means the account designated Account 191 of the Uniform System of Accounts Prescribed for Natural Gas Companies, of such parts 201 and 204.


(a) Repealer.—Title III of the Public Utility Regulatory Policies Act of 1978 (relating to retail policies for natural gas utilities) is hereby repealed.

(b) Conforming Amendment.—The table of contents for such Act is amended by striking out the items relating to title III.
TITLE II—INCENTIVES FOR INCREASED NATURAL GAS PRODUCTION

SEC. 201. DEREGULATION OF NATURAL GAS PRODUCED FROM WELLS DRILLED ON OR AFTER JANUARY 1, 1983.

(a) Amendment.—Section 121 of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following new subsection:

“(f) Natural Gas From Wells Drilled on or After January 1, 1983.—Effective beginning on the date of the enactment of this subsection, the provisions of subtitle A respecting the maximum lawful price for any first sale of natural gas shall cease to apply to any first sale of natural gas produced from any well if—

“(1) the surface drilling of the well commenced on or after January 1, 1983; and

“(2) a permit, license, or comparable authorization was issued with respect to the drilling by the applicable Federal or State agency having regulatory jurisdiction with respect to the production of such natural gas.”.

(b) Administrative Burdens.—The Federal Energy Regulatory Commission shall prescribe regulations designed to minimize the administrative burdens—
(1) which arise under any provision of law within
the jurisdiction of the Commission, and
(2) which could apply to any person whose first
sales of natural gas may be covered by subsection (f) of
section 121 of such Act, as added by subsection (a) of
this section.

SEC. 202. CEILING PRICES FOR CERTAIN OTHER NATURAL GAS
BASED ON PROJECTED MARKET PRICES.

(a) Amendment.—Title I of the Natural Gas Policy
Act of 1978 is amended by inserting the following new sec-
tion:

"SEC. 111. CEILING PRICES FOR CERTAIN PRE-1983 WELLS
BASED ON MARKET PRICES.

"(a) Application.—Unless a higher maximum lawful
price is available pursuant to section 101(b)(5), the maximum
lawful price computed under subsection (b) shall apply to any
first sale of natural gas for any month beginning after De-
cember 1982.

"(b) Maximum Lawful Price.—

"(1) General rule.—The maximum lawful
price, per million Btu's, under this section for any
month shall be the price resulting under the following
formula:
"P = DT + B

(2) MEANING OF TERMS.—For purposes of the
formula set forth in paragraph (1)—

(A) the term ‘P’ means, with respect to any
category of natural gas, the maximum lawful price
per million Btu’s for that category of natural gas;

(B) the term ‘D’ means, with respect to any
category of natural gas—

(i) the amount by which the decontrol
reference price varies from the base price for
that category of natural gas, divided by

(ii) 24, reduced by the number of cal­
endar months occurring between December
1982 and the beginning of the current calen­
dar quarter;

(C) the term ‘T’ equals the number of
months which have elapsed in the current calen­
dar quarter, including the month for which the
maximum lawful price is being calculated; and

(D) the terms ‘B’ and ‘base price’, when
used with respect to any category of natural gas,
mean—

(i) in the case of the calendar quarter
beginning January 1983, the maximum
lawful price provided for that category for December 1982; and

“(ii) in the case of each subsequent calendar quarter, the maximum lawful price for that category for the calendar month preceding that calendar quarter.

“(3) Decontrol Reference Price.—

“(A) Initially to be based on Section 102 price.—For each month during the first 3 calendar quarters of calendar year 1983, the decontrol reference price shall be equal to the maximum lawful price established under section 102 for that month.

“(B) Thereafter adjusted to the price for certain exempt wells during preceding calendar quarter.—

“(i) Estimate.—During the third calendar quarter of calendar year 1983, and each following calendar quarter before October 1, 1984, the Commission shall estimate the weighted average first sale price for natural gas delivered during the preceding calendar quarter from wells the production from which is exempted from ceiling prices under this subtitle pursuant to section 121(f). Esti-
mates under this subparagraph shall be made
in accordance with subsection (c).

"(ii) ADJUSTMENT.—For the following
calendar quarter, the decontrol reference
price shall be adjusted to equal that estimate.

"(c) WEIGHTED AVERAGE PRICE.—For purposes of
applying the formula set forth in subsection (b)—

"(1) IN GENERAL.—In the case of any first sale
of natural gas during a calendar quarter, the weighted
average price applicable shall be the weighted average
of the prices determined under paragraph (2) for the
preceding calendar quarter.

"(2) INFORMATION COLLECTION.—

"(A) PRICE INFORMATION COLLECTION.—
In the case of the first sale of any natural gas
from wells the production of which is exempted
from ceiling prices under this subtitle pursuant to
section 121(f), the Commission shall require the
purchaser to file with the Commission, within 5
days after deliveries commence—

"(i) a copy of the contract involved, to-
together with all ancillary agreements, and

"(ii) unless readily apparent in the con-
tact, a statement of (I) the price paid for
natural gas on the first day deliveries com-
mence, (II) the estimated volumes (in millions of Btu’s) to be delivered during the first 12 months after deliveries commence, and (III) the point of delivery under such contract.

“(B) Commission may exempt certain contracts involving annual delivery of less than 100,000 MMBtu’s.—The Commission may, by rule, provide an exemption from the reporting requirements under subparagraph (A) if it determines the volumes of natural gas involved do not justify burdens imposed by such requirement. The Commission may not exempt any contract under which the volumes to be delivered during the first 12 months after deliveries commence are greater than 100,000 million Btu’s (including volumes under other contracts covering natural gas from the same well).

“(C) Implementation of reporting requirements.—Not later than 3 months after the date of the enactment of the Natural Gas Production, Utilization, and Conservation Act, the Commission shall prescribe and make effective (and may from time to time amend) the reporting requirements contained in this paragraph. The re-
porting requirements shall be promulgated so as
to enable the Commission to identify and elimi­
nate the duplicative reporting of purchased vol·
umes.

“(4) Determination of weighted average
prices.—During each calendar quarter, the Commiss­
ion, on the basis of information filed under paragraph
(2), shall determine the weighted average price for first
sales of natural gas which occurred during the preced­
ing calendar quarter. Such prices shall be calculated
and published by the Commission at least 15 days
before the beginning of the next calendar quarter.

“(d) Categories of Natural Gas.—For purposes of
this section, each category of natural gas established under
this Act for purposes of determining a maximum lawful price
shall be treated as a separate category.

“(e) Minimum Rate.—In no case shall the applicable
price for natural gas delivered in any month be less than the
price for minimum rate gas (as defined in part 271.402(b)(9)
of title 18 of the Code of Federal Regulations) delivered in
such month, as prescribed under part 271 of title 18 of the
Code of Federal Regulations.”.

(b) Conforming Amendment.—The table of contents
for such Act is amended by inserting the following after the
item relating to section 110:

“Sec. 111. Ceiling prices for certain pre-1983 wells based on market prices.”.
(c) **Effective Date.**—The amendments made by this section shall apply with respect to calendar months beginning after December 1982. In determining the maximum lawful price under such amendments for any calendar month, such price shall be determined as if such amendments had been in effect on and after January 1, 1983.

**SEC. 203. IMPORTED NATURAL GAS.**

(a) **Approval of Imports.**—

(1) **Suspension of approval on imports at prices exceeding qualified import price.**—Any order of the Federal Energy Regulatory Commission which authorizes, under section 3 of the Natural Gas Act, the import from a foreign country of any natural gas (or liquefied natural gas) produced outside the United States, shall be suspended unless the price at which such natural gas is imported into the United States does not exceed the qualified import price under subsection (b).

(2) **No new approval of imports at prices exceeding qualified import price.**—The Federal Energy Regulatory Commission may not authorize, under section 3 of the Natural Gas Act, the import from a foreign country of any natural gas (or liquefied natural gas) produced outside the United States unless the price at which such natural gas is imported into
the United States does not exceed the qualified import
price under subsection (b).

(b) QUALIFIED IMPORT PRICE DEFINED.—

(1) CONTRACT IN EFFECT.—

(A) IN GENERAL.—In the case of natural
gas (or liquefied natural gas) with respect to
which there is a contract price for importation in
effect during December 1982, the “qualified
import price” shall be equal to the maximum
lawful price under section 111(b) of the Natural
Gas Policy Act of 1978 (as added by this Act).

(B) QUALIFIED IMPORT PRICE TO BE BASED
ON CONTRACT PRICE.—The base price (and the
factor B) to be used for determining the maximum
lawful price under section 111(b) of such Act for
imports during any month after December 1982 of
any natural gas under this subparagraph shall be
equal to the contract price for such natural gas on
the date of the enactment of the Natural Gas Pro-
duction, Utilization, and Conservation Act.

(C) CONTRACT PRICE DEFINED.—For pur-
poses of this paragraph, the term “contract
price”, when used with respect to any natural
gas, means the contract price (as defined in sec-
tion 105(c)) if such natural gas were subject to a contract on such date of enactment.

(2) **No contract in effect.**—In the case of natural gas (or liquefied natural gas) with respect to which there is no contract price for importation in effect during December 1982, the “qualified import price” shall be the decontrol reference price, as defined in section 111(b)(3) of such Act.

**SEC. 204. 1985 DECONTROL OF ALL NATURAL GAS.**

(a) **Decontrol.**—Section 121(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3331(a)) is amended to read as follows:

“(a) **General Rule.**—Effective beginning January 1, 1985, the provisions of subtitle A respecting the maximum lawful price shall cease to apply to the first sale of any natural gas.”.

(b) **Technical and Conforming Amendments.**—

(1) Section 121 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3331) is amended by striking out subsections (c), (d), and (e).

(2) Section 103(b) of such Act (15 U.S.C. 3313(b)) is amended by striking out paragraph (2).

(3) Section 105(b) of such Act (15 U.S.C. 3315(b)) is amended by striking out paragraph (3).
(4) Section 313 of such Act (15 U.S.C. 3373) is amended by striking out "(as defined in section 105(b)(3)(B))" each place it appears and by adding at the end thereof the following new subsection:

"(c) DEFINITION OF INDEFINITE PRICE ESCALATOR CLAUSE.—For purposes of this section, the term 'indefinite price escalator clause' includes any provision of any contract—

"(1) which provides for the establishment or adjustment of the price for natural gas delivered under such contract by reference to other prices for natural gas, for crude oil, for refined petroleum products, or any other energy source, or

"(2) which allows for the establishment or adjustment of the price of natural gas delivered under such contract by negotiation between the parties.”.

SEC. 205. REPEAL OF PROVISIONS ALLOWING REIMPOSITION OF PRICE CONTROLS.

(a) REPEALER.—Sections 122 and 123 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3332 and 3333) are hereby repealed.

(b) CONFORMING AMENDMENT.—The table of contents for such Act is amended by striking out the items relating to sections 122 and 123.
SEC. 206. DEREGULATION OF COMMITTED OR DEDICATED
NATURAL GAS.

(a) DEREGULATION.—Section 601(a)(1)(B) of the Natu-
amended to read as follows:

"(B) COMMITTED OR DEDICATED NATURAL
gas.—Effective January 1, 1985, for purposes of
section 1(b) of the Natural Gas Act, the provi-
sions of such Act and the jurisdiction of the Com-
mission under such Act shall not apply by reason
of any first sale of natural gas which was commit-
ted or dedicated to interstate commerce as of the
day before the date of enactment of this Act.

Before January 1, 1985, for purposes of section
1(b) of the Natural Gas Act, the provisions of the
Natural Gas Act and the jurisdiction of the Com-
mission under such Act shall not apply by reason
of any first sale of natural gas which was commit-
ted or dedicated to interstate commerce as of the
day before the date of enactment of this Act and
which is—

"(i) high-cost natural gas (as defined in
section 107(c) (1), (2), (3), or (4) of this Act);

"(ii) new natural gas (as defined in sec-
tion 102(c) of this Act);"
"(iii) natural gas produced from any new onshore production well (as defined in section 103(c) of this Act); or

"(iv) natural gas produced from wells drilled on or after January 1, 1983, and exempted from maximum lawful prices pursuant to section 121(f)."

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) Effective beginning January 1, 1985, section 601(a)(1) of such Act (15 U.S.C. 3431(a)(1)) is amended by striking out subparagraph (E).

(2) Section 601(b)(1)(A)(ii) of such Act (15 U.S.C. 3431) is amended by striking out "solely".

SEC. 207. ELIMINATION OF REQUIRED MINIMUM CONTRACT DURATION AND REQUIRED OFFERS AND RIGHTS OF FIRST REFUSAL.

Section 315 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3375) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) **CONTRACT DURATION.**—The Commission may not specify the minimum duration of any contract for the purchase of natural gas to which section 601(a)(1) (A) or (B) is applicable.

"(b) **OFFERS; RIGHT OF FIRST REFUSAL.**—In the case of any person (or any successor in interest to such person)
who, but for the provisions of section 601(a)(1)(B) (relating to
deregulation), would have been entitled to receive natural gas
committed or dedicated to interstate commerce pursuant to
such commitment or dedication if such natural gas were sold,
the Commission may not require that such natural gas be
offered to be sold to such person, either directly or through
the granting of any right of first refusal of an offer made to
any other person.”.

SEC. 208. COST PASSTHROUGH ALLOWED EXCEPT WHERE FRAUD INVOLVED.

(a) Federal Energy Regulatory Commission.—

Paragraph (2) of section 601(c) of the Natural Gas Policy Act
of 1978 (15 U.S.C. 3431(c)) is amended by striking out
"except to the extent” and all that follows and by inserting
in lieu thereof the following: “except to the extent the Com-
mission determines that the amount paid was excessive due
to fraud.”.

(b) State Regulatory Bodies.—Paragraph (2) of
section 601(c) of such Act (15 U.S.C. 3431(c)) is further
amended—

(1) by striking out “For purposes of” and insert-
ing in lieu thereof “Any agency of a State or political
subdivision thereof having ratemaking authority over
any intrastate pipeline or local distribution company
may not deny such pipeline or local distribution compa-
ny recovery of any amount paid with respect to any
purchase of natural gas, and, for purposes of”;
(2) by inserting a comma before “if”; and
(3) by inserting after “Commission” the second
place it appears the following: “or such ratemaking
agency, as the case may be,”.

SEC. 209. CERTIFICATION FOR SPECIAL PRICING PROVISIONS.

Section 503 of the Natural Gas Policy Act is amended
by adding at the end thereof the following new subsection:
“(f) SELLER CERTIFICATION APPLICABLE FOR CERT-
TAIN PURPOSES.—For purposes of sections 111 and 121(f),
y any certification made by a seller in a sworn statement to the
Commission and the Federal and State agency having au-
thority to make determinations referred to subsection (a)(1)
shall satisfy any requirements for a determination under this
section.”.

TITLE III—REMOVAL OF ARTIFI-
CIAL IMPEDIMENTS TO NATU-
RAL GAS SALES

SEC. 301. AUTHORIZATION OF CERTAIN SALES AND TRANS-
PORTATION.

(a) NATURAL GAS PRODUCED FROM OUTER CONTI-
NENTAL SHELF.—

(1) Section 601(a)(1)(B) of the Natural Gas Policy
206(a), is amended by striking out "or" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting "; or" in lieu thereof, and by adding at the end thereof the following new clause:

"(v) natural gas from the Outer Continental Shelf if such sale is to an intrastate pipeline, local distribution company, or end-user located within any State."

(2) Section 601(a)(2)(A) of such Act (15 U.S.C. 3431) is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting "; or" in lieu thereof, and by adding at the end thereof the following new clause:

"(iii) of natural gas from the Outer Continental Shelf that is transported on behalf of any intrastate pipeline, local distribution company, or end-user located within any State, except that (I) the rate any pipeline charges for any transportation over or across the Outer Continental Shelf shall be just and reasonable (within the meaning of the Natural Gas Act), as determined by the Commission, and (II) any facilities for such transportation over or across the Outer Continental Shelf shall be constructed or operated only
pursuant to a certificate issued by the Commission under section 7 of the Natural Gas Act.”

(b) COMMISSION MAY PERMIT SECTION 311(b) SALES BY INTERSTATE PIPELINES.—

(1) Section 311(b)(1) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431) is amended to read as follows:

“(1) IN GENERAL.—The Commission may, by rule or order, authorize any pipeline to sell natural gas to—

“(A) any other pipeline; and

“(B) any local distribution company.”.

(2) The heading for paragraph (2) of section 311(b) of such Act is amended by inserting “FOR INTRASTATE PIPELINES” after “CHARGES”.

(3) Subparagraph (B) of section 311(b)(2) of such Act is amended—

(A) by striking out “an amount” and inserting in lieu thereof “any amount”; and

(B) in clause (i), by striking out “any intrastate” and inserting in lieu thereof “an”, and by inserting “storage,” after “transportation,”.

(4) Section 311(b) of such Act is amended by redesignating paragraphs (3), (4), (5), (6), and (7) as
paragraphs (4), (5), (6), (7), and (8), respectively, and by inserting after paragraph (2) the following new paragraph:

“(3) Rates and charges for interstate pipelines.—The rates and charges of any interstate pipeline with respect to any sale authorized under paragraph (1) shall be just and reasonable (within the meaning of the Natural Gas Act).”.

(5) Paragraph (5) (as redesignated) of section 311(b) of such Act is amended—

(A) by striking out “INTRASTATE” in the paragraph heading and inserting in lieu thereof “EXISTING”; and

(B) by striking out “intrastate pipeline” and inserting in lieu thereof “seller”.

(6) Paragraph (6) (as redesignated) of section 311(b) of such Act is amended—

(A) by striking out “intrastate pipeline” in subparagraph (A) and inserting in lieu thereof “seller”;

(B) by striking out “interstate pipeline or local distribution company” in clause (i) of subparagraph (A) and inserting in lieu thereof “purchaser”;
(C) by striking out “intrastate pipeline” in clause (ii) of subparagraph (A) and inserting in lieu thereof “seller”; and

(D) by striking out “intrastate pipeline” in subparagraph (B) and inserting in lieu thereof “seller”.

(7) Paragraph (7) (as redesignated) of section 311(b) of such Act is amended by striking out “intrastate pipeline” in subparagraphs (A)(i), (A)(ii), and (C) and inserting in lieu thereof “seller”.

(8) Paragraph (8) (as redesignated) of section 311(b) of such Act is amended by striking out “intrastate pipeline” in subparagraphs (A) and (B) and inserting in lieu thereof “seller”.

(c) Commission May Permit Section 312 Assignments to Intrastate Pipelines.—

(1) Section 312(a) of such Act (15 U.S.C. 3372(a)) is amended to read as follows:

“(a) Authorization of Assignments.—The Commission may, by rule or order, authorize a pipeline or local distribution company to assign, without compensation, to any other pipeline or local distribution company, all or any portion of the assignor’s right to receive surplus natural gas at any first sale, upon such terms and conditions as the Commission determines appropriate.”.
(2) Section 312(c) of such Act (15 U.S.C. 3372(c))
is amended to read as follows:

"(c) SURPLUS NATURAL GAS.—For purposes of this
section, the term 'surplus natural gas' means, with respect to
any pipeline or local distribution company, any natural gas
which exceeds the then current demands of such person for
natural gas, as determined by the Commission, or the State
agency having regulatory jurisdiction over that person."

(d) JURISDICTION OF COMMISSION OVER CERTAIN
TRANSPORTATION AND SALE BY INTRASTATE PIPELINES
AND LOCAL DISTRIBUTION COMPANIES.—Section 601(a) of
the Natural Gas Policy Act of 1978 (15 U.S.C. 3431) is
amended by adding a new paragraph (3) which reads as fol-

ows:

"(3) TRANSPORTATION AND SALE BY INTRA-
STATE PIPELINES AND LOCAL DISTRIBUTION COMPAN-
IES.—

"(A) JURISDICTION OF THE COMMISSION.—
For the purposes of section 1(b) of the Natural
Gas Act, the provisions of the Natural Gas Act
and the jurisdiction of the Commission under such
Act shall not apply to any transportation or sale
(including any sale for resale) of natural gas by
one or more intrastate pipelines or local distribu-
tion companies and such natural gas shall not be
deemed to be in interstate commerce, if all trans-
portation between States or between States and
the Federal domain in the Outer Continental Shelf
is performed by one or more interstate pipelines
pursuant to authorization by the Commission
under section 302(c), 303 (b), (c), (d), or (h), or
311(a)(1) of this Act or under section 7 of the
Natural Gas Act.

“(B) NATURAL-GAS COMPANY.—For pur-
poses of the Natural Gas Act, the term ‘natural-
gas company’ (as defined in section 2(6) of such
Act) shall not include any person by reason of, or
with respect to, any transportation or sale of nat-
ural gas if the provisions of the Natural Gas Act
and the jurisdiction of the Commission under the
Natural Gas Act do not apply to such transporta-
tion or sale by reason of subparagraph (A) of this
paragraph.”.

(e) PROHIBITION ON COMMISSION IMPOSING RESTRI-
CTIONS ON OUTER CONTINENTAL SHELF GAS.—Section
3431), as amended, is further amended by adding at the end
thereof the following new paragraph:

“(3) ACCESS TO OUTER CONTINENTAL SHELF
NATURAL GAS.—The Commission may not impose any
direct or indirect limitation on the right to contract for
sale or use of natural gas from the Outer Continental
Shelf, except that the Commission shall ensure that an
interstate pipeline may not charge for any transporta-
tion of such natural gas a rate in excess of a just and
reasonable rate (within the meaning of the Natural Gas
Act)."

(f) Nonapplicability of Natural Gas Act to
Certain Sales by Exempt Pipelines.—Section 1(c) of
the Natural Gas Act (15 U.S.C. 717(c)) is amended by insert-
ing after the first sentence the following: "If the provisions of
this Act do not apply to any person by reason of this subsec-
tion, then such provisions shall not apply to any other person
receiving natural gas from such person solely by reason of
such receipt and subsequent sale or transportation."

SEC. 302. EMERGENCY AUTHORITY APPLICABLE TO INTER-
STATE AND INTRASTATE PIPELINES.

(a) Emergency Purchase Authority.—Section
is amended—

(1) in subsection (a)—

(A) by striking out "interstate pipeline or
local distribution company served by any inter-
state pipeline" and inserting in lieu thereof "inter-
state or intrastate pipeline or local distribution company”;

(B) by striking out paragraph (1) and inserting in lieu thereof the following:

“(1) from any producer of natural gas; or”; and

(C) in paragraph (2), by striking out “intrastate” and “an interstate pipeline or”;

(2) in subsection (d), by striking out “any interstate pipeline” and inserting in lieu thereof “any pipeline”; and

(3) in subsection (e), by striking out “any intrastate pipeline” and inserting in lieu thereof “any pipeline”.

(b) EMERGENCY ALLOCATION AUTHORITY.—Section 303 of such Act (15 U.S.C. 3363) is amended—

(1) in subsection (a), by striking out “interstate” in paragraph (1) and by striking out subparagraph (A) in paragraph (2) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(2) in subparagraph (D) of subsection (b)(1), by striking out “any interstate pipeline” and inserting in lieu thereof “any pipeline”;

(3) in subsection (c)—

(A) by striking out “interstate” each place it appears; and
(B) by striking out "certificated natural gas" in paragraphs (1) and (4) and inserting in lieu thereof "natural gas"; and

(4) in subparagraph (D) of subsection (d)(1), by striking out "interstate".

(c) CONFORMING AMENDMENTS.—Subparagraph (C) of section 601(a)(1) of such Act (15 U.S.C. 3431(a)(1)(C)) is amended—

(1) by striking out "or" at the end of clause (i);
(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or"; and
(3) by adding at the end thereof the following new clause:

"(iii) pursuant to any allocation assigned under section 303.".

SEC. 303. CLAUSES PROHIBITING CERTAIN SALES, TRANSPORTATION, OR COMMINGLING WHICH DO NOT AFFECT JURISDICTION.

Section 314 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"(b) SUBSEQUENT SALES AND TRANSPORTATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any provision of any contract for the sale
(other than a first sale) or transportation of natural gas
is hereby declared against public policy and unenforceable with respect to any natural gas covered by this
Act to the extent such provision—

"(A) prohibits the commingling of natural
gas subject to such contract, or the sale or transport-
ation of natural gas under such contract
which has been commingled, with natural gas—

"(i) which is subject to the jurisdiction
of the Commission under the provisions of
the Natural Gas Act; or

"(ii) which has been transported across
the borders of any State;

"(B) prohibits the sale or transportation in
interstate commerce (within the meaning of the
Natural Gas Act) of natural gas subject to such
contract; or

"(C) terminates, or grants any party the
option to terminate, any obligation under any such
contract as a result of such commingling, sale, or
transportation.

"(2) ACTIVITIES AFFECTING JURISDICTION NOT
COVERED.—Paragraph (1) shall not apply to any con-
tact provision to the extent that any party to the con-
tact could become subject to the jurisdiction of the
Commission under the Natural Gas Act if that contract provision were not enforceable."
To prohibit increases in the wellhead prices of natural gas during the six-month period beginning January 3, 1983.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1983

Mr. Nowak introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit increases in the wellhead prices of natural gas during the six-month period beginning January 3, 1983.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Natural Gas Price Control Act of 1983".

FREEZE ON WELLHEAD NATURAL GAS PRICES

Sec. 2. (a) Notwithstanding title I of the Natural Gas Policy Act of 1978, the Natural Gas Act, or any other provision of law, the maximum lawful price applicable to the first sale delivery of any natural gas produced in the United
States shall be the December 31, 1982, price applicable to such natural gas.

(b) The provisions of the Natural Gas Policy Act of 1978 shall apply to violations of subsection (a) to the same extent, and in the same manner, as such provisions apply to violations of maximum lawful prices under title I of such Act.

NOVEMBER 30, 1982, PRICE DEFINED; OTHER DEFINITIONS

Sec. 3. (a) For purposes of this Act—

(1) The term “December 31, 1982, price”—

(A) in the case of any first sale of natural gas sold under any contract in effect for deliveries on December 31, 1982, means the first sale price which applied to deliveries of natural gas on that date under such contract; and

(B) in the case of any first sale of any other natural gas, means the price determined by the Federal Energy Regulatory Commission to be the weighted average first sale price of all natural gas delivered on that date which is in the same category as the natural gas involved;

(2) the term “category” means the category or classification of natural gas prescribed by the Natural Gas Policy Act of 1978 for determining the maximum lawful price for such natural gas or for determining if
such natural gas is not subject to a maximum lawful
price under such Act. The Commission may further
define such term to the extent necessary to carry out
the purposes of this Act;

(3) the term “control period” means the period
beginning January 1, 1983, and ending June 30, 1983; and

(4) the terms “natural gas”, “first sale”, and “de-
deliver” have the same meanings given such terms by

(b) The Federal Energy Regulatory Commission may
collect such information as may be necessary to make the
determinations required under subsection (a)(1)(B) and to oth-
erwise administer this Act.

PRICE INCREASES SCHEDULED TO TAKE EFFECT DURING
CONTROL PERIOD TO BE DISREGARDED AFTER CON-

Sec. 4. (a) Notwithstanding the terms of the Natural
Gas Policy Act of 1978 or of any contract, any price increase
subject to this Act shall not be given effect following the
expiration of the control period.

(b) For purposes of subsection (a), a price increase is
subject to this Act if it is an increase in the first sale price of
natural gas which (but for this Act) would have taken effect
during the control period under the terms of any contract, or
if it is an increase in the maximum lawful price of natural gas prescribed by or under the Natural Gas Policy Act of 1978, which (but for this Act) would have taken effect during the control period.

BENEFITS OF FREEZE TO BE PASSED THROUGH

Sec. 5. Under regulations which the Federal Energy Regulatory Commission shall prescribe, the Commission shall take such steps as may be necessary to assure that the reductions in the costs which (but for this Act) would be borne by natural gas purchasers shall be passed through to such purchasers.
A BILL

To insure that rates charged by natural-gas companies are market-sensitive.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 Sec. 1. This Act may be cited as the “Natural Gas
4 Marketing Act of 1983”.
5 Sec. 2. (a) Notwithstanding any other provision of law,
6 whenever a gas distributing company, State commission, mu-
7 nicipality, or State files a complaint pursuant to section 4(e)
8 of the Natural Gas Act alleging that any rate proposed to be
9 charged by an interstate pipeline company is not just and
10 reasonable, and certifies that such proposed rate, taken to-
11 gether with any prevailing lawfully imposed charges for the
retail delivery of such gas, results in a retail price for natural
gas that is in excess of the per million Btu equivalent price of
a competing fuel currently available to and usable by existing
retail customers served by or through any of the interstate
pipeline company’s wholesale customers, the Commission
shall set the matter for hearing and decision.

(b) The Commission shall suspend the operation of the
interstate pipeline company’s rate increase filing until the is-
suance of a final appealable order upon completion of such
hearing.

(c) Unless otherwise agreed by all parties, the Commis-
sion shall conclude its hearing and render its final decision on
any proposed rate challenged in accordance with this Act
within six months after the date the rate increase filing was
suspended.

(d) At such a hearing, the burden of proof shall be on
the interstate pipeline company to establish, inter alia, that
its gas purchase contracts with its suppliers and its gas acqui-
sition practices are designed to maintain its gas prices, taken
together with any prevailing lawfully imposed charges for the
retail delivery of such gas, at a level competitive with the
retail price of competing fuels in its service territory, and that
its average cost of purchased gas and its wholesale rates are
and will be adjustable in response to increases and decreases
in the retail prices of competing fuels in its service territory.
(e) If the Commission finds that the interstate pipeline company has successfully discharged its burden of proof under subsection (d) above, the Commission may approve collection by the interstate pipeline company of all or any portion of the proposed rate, in accordance with otherwise applicable laws and regulations.

(f) If the Commission finds that the interstate pipeline company has failed to discharge its burden of proof under subsection (d) above, the Commission shall prescribe an adjustment in the interstate pipeline company’s rates which it finds is sufficient to render the interstate pipeline company’s rates, taken together with any prevailing lawfully imposed charges for the retail delivery of such gas, competitive with the retail price of competing fuels in its service territory and which it finds is consistent with the long-term gas supply needs of the interstate pipeline company’s customers. Upon the entry of such a finding, each of the interstate pipeline company’s gas purchase contracts shall be deemed to include a provision relieving the interstate pipeline company of its obligation to purchase the gas or otherwise pay any charge or fee with respect to such gas (whether or not delivery is taken) if, in the interstate pipeline company’s sole opinion, the gas is not marketable in the interstate pipeline company’s service territory.
Sec. 3. (a) Nothing in this Act shall be construed as altering, or permitting the altering of, any law barring unduly discriminatory pipeline rates.

(b) In any allocation of costs approved by the Commission in connection with an interstate pipeline company rate order issued pursuant to this Act, all purchased gas costs shall be allocated equally to all volumes sold.

(c) Nothing in this Act shall be construed as giving the Commission authority to increase any rate to any customer other than in accordance with a proposal filed by the interstate pipeline company.

(d) Nothing in this Act shall be construed as giving the Commission authority to alter any charges duly approved by State or local governmental authorities for the retail delivery of gas purchased from the interstate pipeline company, or to make any other adjustments in any rate order to take such charges into account.

Sec. 4. (a) For purposes of this Act, the terms “municipality”, “State”, “natural gas”, “gas distributing company”, “State commission”, and “Commission” have the meanings given such terms by or under the Natural Gas Act.

(b) For the purposes of this Act, the term “interstate pipeline company” has the same meaning given such term by or under the Natural Gas Policy Act.
To amend the Natural Gas Policy Act of 1978 to impose a moratorium on price increases.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1983

Mr. Glickman (for himself, Mr. Skelton, Mr. Mineta, Mr. Simon, Mr. Eckart, Mr. Stokes, Mr. Howard, and Mr. Rahall) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Natural Gas Policy Act of 1978 to impose a moratorium on price increases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

"SEC. 111. PRICE FREEZE ON NATURAL GAS.

"(a) PRICE FREEZE.—Notwithstanding any other provision of law, the maximum lawful price applicable to any first sale of any natural gas from January 6, 1983, through January 1, 1985, shall be the maximum lawful price applicable to such sale on October 1, 1982."
"(b) Price Freeze on Natural Gas Not Covered by Wellhead Price Controls.—Notwithstanding any other provision of law, the maximum lawful price from January 6, 1983, through January 1, 1985, for any first sale of natural gas from a well the surface drilling of which began prior to January 6, 1983, and for which there was no applicable maximum lawful price on October 1, 1982, solely by reason of the elimination of price controls pursuant to subtitle B of title I of this Act shall be the contract price specified for deliveries of such natural gas on October 1, 1982: Provided, however, That if there was no contract price specified for deliveries of such natural gas on such date, the maximum lawful price shall be the average of the prices paid on October 1, 1982, for deliveries of natural gas from the three nearest wells by surface location for which there similarly was no applicable maximum lawful price on October 1, 1982.

"(c) Expiration of Price Freeze.—Following the expiration of the price freeze imposed by this section, the maximum lawful price for any first sale of natural gas on October 1, 1982, shall increase from the October 1, 1982, level at the rate specified by this Act for that category of natural gas.".

(b) Extension of Price Controls.—Section 121 of the Act is amended to read as follows: "January 1, 1985", HR 583 IH
1 becomes “January 1, 1987”, and “July 1, 1987”, becomes
2 “July 1, 1989”.
3 (c) EXTENSION OF STANDBY AUTHORITY.—Section
4 122 of the Act is amended to read as follows: “July 1,
5 1985”, becomes “July 1, 1987”; “June 30, 1987”, becomes
6 “June 30, 1989”; “May 31, 1985”, becomes “May 31,
7 1987”.
8 (d) EXTENSION OF REPORT DATE.—Section 123 of
9 the Act is amended to read as follows: “July 1, 1984”, be-
10 comes “July 1, 1986”; “January 1, 1985”, becomes “Janu-
11 ary 1, 1987”.

O
A BILL

To amend the Natural Gas Policy Act of 1978 to impose a freeze on natural gas price increases.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

FREEZE ON WELLHEAD NATURAL GAS PRICES

SECTION 1. (a) PRICE FREEZE.—Subtitle A of title I of
the Natural Gas Policy Act of 1978 is amended by adding at
the end thereof the following:

"SEC. 111. PRICE FREEZE ON NATURAL GAS.

"(a) PRICE FREEZE.—Notwithstanding any other pro-
vision of law, the maximum lawful price applicable to any
first sale of any natural gas delivered after January 6, 1983,
1 shall be the maximum lawful price applicable to deliveries
2 under such contract on October 1, 1982.

3 "(b) Price Freeze on Natural Gas Not Covered
4 by Wellhead Price Controls.—Notwithstanding any
5 other provision of law, in the case of any natural gas for
6 which there was no applicable lawful price for deliveries on
7 October 1, 1982, the maximum lawful price applicable to any
8 first sale of natural gas delivered after January 6, 1983, shall
9 be—

10 "(1) the contract price specified for deliveries of
11 such natural gas on October 1, 1982, or
12 "(2) if there was no contract price specified for
13 deliveries of such natural gas on such date, the aver-
14 age of the prices paid on October 1, 1982, for deliv-
15 eries of natural gas from the three nearest wells (meas-
16 ured by surface location) for which there similarly was
17 no applicable maximum lawful price on October 1,
18 1982.".

19 (b) Clerical Amendment.—The table of contents for
20 such Act is amended by inserting after the item relating to
21 section 110 the following new item:

22 "Sec. 111. Price freeze on natural gas."

23 Continuation of Price Controls
24 Sec. 2. (a) Subtitle B of title I of the Natural Gas
25 Policy Act of 1978 (relating to decontrol of certain natural
26 gas prices) is repealed.

HR 619 IH
(b)(1) The table of contents for such Act is amended by striking out the item relating to subtitle A and the items relating to subtitle B and the sections therein.

(2) Title I of such Act is amended by striking out the heading for subtitle A.

(3) Section 101(b)(9) of such Act is amended to read as follows:

"(9) EFFECT ON CONTRACT PRICE.—In the case of any price which is established under any contract for the first sale of natural gas and which does not exceed the applicable maximum lawful price under this title, such maximum lawful price shall not supersede or nullify the effectiveness of the price established under such contract."

(4) Section 107(d) of such Act (42 U.S.C. 3317(d)) is amended by striking out "and the provisions of subtitle B".

(5) Section 507(a) of such Act (42 U.S.C. 3417(a)) is amended to read as follows:

"(a) APPLICATION.—This section applies with respect to any resolution of disapproval relating to incremental pricing under section 202(c) or 206(d)(2)."

(6) Section 507(c) of such Act (42 U.S.C. 3417(c)) is amended by striking out "—For purposes of" and all that follows through "INCREMENTAL PRICING ACTION" and inserting in lieu thereof "OF DISAPPROVAL OF INCREMENTAL
PRICING ACTION”; and by striking out “paragraph” and inserting in lieu thereof “subsection”.

(7) Section 601(b)(1)(A) of such Act (42 U.S.C. 3431(b)(1)(A)) is amended by striking out “if—” and all that follows through “Act.” and inserting in lieu thereof “if such amount does not exceed the applicable maximum lawful price established under title I of this Act.”.
To amend the Natural Gas Policy Act of 1978 to clarify the definition of abuse for purposes of disqualifying certain cost passthroughs to distributors and consumers of natural gas.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1983

Mr. TAUKE (for himself, Mr. EVANS of Iowa, Mr. LEACH of Iowa, Mr. SMITH of Iowa, Mr. BEDELL, Mr. HARKIN, Mr. DAUB, Mrs. MARTIN of Illinois, Mr. BERREUTER, Mr. WINN, Mr. NOWAK, and Mr. ROBERTS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Natural Gas Policy Act of 1978 to clarify the definition of abuse for purposes of disqualifying certain cost passthroughs to distributors and consumers of natural gas.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Natural Gas Consumer Protection Act".
DEFINITION OF ABUSE

SEC. 2. Section 2 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301) is amended by adding at the end thereof the following:

"(38) ABUSE.—The term 'abuse' includes misrepresentation, imprudence on the part of the pipeline, failure by a pipeline to bargain at arms-length with any producer, and the entering into of or operating pursuant to any contract by any pipeline with any producer if such contract materially prevents the pipeline from responding to changes in customer demand or other market forces. A rebuttable presumption arises that a contract materially prevents a pipeline from responding to changes in customer demand or other market forces under the following circumstances:

"(A) INCLUSION OF CERTAIN CLAUSES.—If any of the following contract clauses are contained in the contract involved:

"(i) TAKE-OR-PAY CLAUSES.—In the case of any contract between a pipeline and a producer which is not an affiliate of the pipeline, any contract provision whereby the pipeline is committed to pay for a minimum quantity of natural gas whether or not taken during a given period if that quantity is
greater than 50 percent of daily contract quantity on an annual basis. In the case of any contract between a pipeline and a producer which is affiliated with the pipeline, any contract provision whereby the pipeline is committed to pay for a minimum quantity of natural gas whether or not taken during a given period or is required to pay any fee or other charge with respect to natural gas for which delivery is not taken.

"(ii) **INDEFINITE PRICE ESCALATOR CLAUSES.**—Any indefinite price escalator clause (as defined in section 105(b)(3)(B)) which functions on the basis of an event not having economic significance to the sale of the natural gas involved and which contravenes the policy of eliminating market frustrating impediments.

"(iii) **MOST-FAVORED-NATION-CLAUSES.**—Any contract provision whereby the purchase price paid by any pipeline to a producer is set by the highest price in a particular production area.

"(B) **ABSENCE OF A MARKET-OUT CLAUSE.**—If the provisions of the contract in-
involved fail to allow the buyer to escape the contract or to negotiate a new lower price if the natural gas is not marketable at the contract price.”.

MAXIMUM CONTRACT DURATION

Sec. 3. (a) Section 315(a)(1) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3375(a)(1)) is amended by inserting “or maximum duration” after “minimum duration”.

O
To provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1983

Mr. GAYDOS introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Temporary Natural Gas Market Correction Act of 1982".

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that—

(1) problems of market imbalance threaten the natural gas industry;
(2) such problems are likely to result in natural
gas users being burdened by excessively high prices;
(3) interstate commerce is significantly affected by
such problems;
(4) an urgent need exists to provide, on a tempo-
rary basis, immediate relief from natural gas contract
provisions which cause those problems; and
(5) adequate information regarding the operation
of the natural gas market is not available to the Con-
gress and the public.

(b) It is the purpose of this Act to reduce the cost of
natural gas supplies to end users which would otherwise
occur during the forthcoming year under “take-or-pay” and
other minimum charge contract provisions—
(1) by permitting natural gas pipeline companies
to adjust volumes of high-price natural gas they would
otherwise be required to take from producers and other
suppliers, thereby facilitating new contracts (and re-
negotiation of existing contracts) for lower-price natu-
ral gas; and
(2) by treating any failure by such pipeline compa-
nies to provide to their customers the least-cost natural
gas available under contract as if such failure were
“fraud, abuse, or similar grounds” for purposes of the
NATURAL GAS PURCHASE CONTRACTS DEEMED TO

INCLUDE VOLUME ADJUSTMENT OPTION

Sec. 3. (a)(1) Any contract for the first sale of natural
gas shall be deemed to include a volume adjustment option
(as defined in subsection (b)) with respect to any natural gas
the first sale delivery of which could occur pursuant to such
contract at any time after the effective date of this section
and before November 1, 1983.

(2) Such option shall be in addition to, and not in lieu of,
any other provision of such contract; except that such option
shall supersede any other provision of such contract to the
extent such other provision would prohibit or restrict the op-
eration of such option.

(b) For purposes of this section, the term "volume ad-
justment option" means a contract provision under which the
purchaser may elect to refuse to take delivery under such
contract of any volume of natural gas (or portion thereof)
without incurring an obligation to pay any fee or charge with
respect to the natural gas not delivered pursuant to such
election.

(c) Subsection (a) shall only apply to natural gas pro-
duced in the United States (including the Outer Continental
Shelf).

(d) This section shall take effect beginning on the 15th
day after the date of the enactment of this Act.
FAILURE BY A PIPELINE TO ACQUIRE THE LEAST-COST NATURAL GAS UNDER CONTRACT CONSIDERED AS FRAUD, ABUSE, OR SIMILAR GROUNDS FOR PURPOSES OF FEDERAL ENERGY REGULATORY COMMISSION REVIEWING PASSTHROUGH OF COSTS

Sec. 4. (a) Except as provided under subsection (c), the purchase by any natural gas pipeline company of any natural gas which is delivered on any day on or after the effective date of this section and before November 1, 1983, at an excessive price shall be considered as fraud, abuse, or similar grounds for purposes of section 601(c)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(c)(2)).

(b) For purposes of subsection (a), the price of natural gas delivered to any natural gas pipeline company on any day shall be considered excessive if that price exceeds the price of any other natural gas not delivered to such pipeline company on that day but which could have been acquired by such pipeline company for delivery on that day under any contract to which the pipeline company is a party. Any modification of such contract after December 6, 1982, shall not be taken into account for purposes of the preceding sentence to the extent such modification results in a higher price, lower delivered volume, or earlier termination of such contract than would otherwise occur under the terms of such contract as they were in effect December 6, 1982.
(c) Subsection (a) shall not apply to the acquisition of any natural gas if—

(1) such acquisition is determined by the Federal Energy Regulatory Commission to be justified because of field drainage requirements, because of peak-shaving demands of any pipeline, local distribution company, or end-user, or because of similar reasons; and

(2) a filing for such exception is included with the first filing made by such company under section 5(a) of this Act.

(d) This section shall take effect beginning on the fifteenth day after the date of the enactment of this Act.

MODIFICATION OF COSTS UNDER PURCHASED GAS ADJUSTMENT CLAUSE

Sec. 5. (a) Within fifteen days after the date of the enactment of this Act, and monthly thereafter, each natural gas pipeline company shall file with the Federal Energy Regulatory Commission—

(1) a statement explaining how such pipeline company has used and will use the contract rights available under section 3, as well as other steps it has taken and proposes to take, to achieve the lowest possible weighted average acquisition cost of natural gas; and

(2) a modification of the costs to be recovered by such pipeline under a purchased gas adjustment clause,
if the weighted average acquisition cost of natural gas by such pipeline company is lower by reason of the exercise of the contract rights available under section 3 or other steps taken by such pipeline company.

(b) Any modification made under subsection (a)(2) shall take effect on and after the date it is filed.

(c) The filings made under this section shall specify, with respect to each contract under which the pipeline company can acquire natural gas during the period covered by section 3—

(1) the parties to such contract;

(2) the volumes subject to such contract;

(3) the price or prices for the natural gas subject to such contract; and

(4) the point of delivery under such contract.

DEFINITIONS

Sec. 6. For the purposes of this Act—

(1) the term "natural gas pipeline company" means a natural-gas company, as defined in section 2(6) of the Natural Gas Act;

(2) the terms "first sale", "deliver", and "Outer Continental Shelf" have the meanings given such terms by the Natural Gas Policy Act of 1978; and
(3) the term “purchased gas adjustment clause” has the meaning given such term under regulations issued under the Natural Gas Act.
To amend the Natural Gas Policy Act of 1978 to prohibit enforcement of take-or-pay clauses in contracts for natural gas.

IN THE HOUSE OF REPRESENTATIVES

January 25, 1983

Mr. LaFalce introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Natural Gas Policy Act of 1978 to prohibit enforcement of take-or-pay clauses in contracts for natural gas.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

That the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 and following) is amended by inserting after section 315 the following new section:

"SEC. 316. TAKE-OR-PAY CLAUSES.

"(a) GENERAL RULE.—Any take-or-pay clause of any contract which applies to the first sale of natural gas or any subsequent sale of natural gas is hereby declared to be against public policy and unenforceable."
"(b) **Take-or-Pay Clause Defined.**—As used in this section, the term 'take-or-pay clause' means any contract provision which requires payment for the minimum quantity of natural gas contracted for under the contract in the event the purchaser fails to take delivery."

**Sec. 2.** The table of contents for such Act is amended by inserting after the item relating to section 315 the following new item:

"Sec. 316. Take-or-pay clauses."
To provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1983

Mr. OBERSTAR (for himself, Mr. EDGAR, Mr. HORTON, Mr. CONTE, Mrs. SCHNEIDER, Mr. WOLFE, Mr. WALGREN, Ms. MIKULSKI, Ms. OAKAR, Mr. HARKIN, Mr. SEIBERLING, Mr. ECKART, Mr. BOLAND, Mr. BEDELL, Mr. ROTH, Mr. WORTLEY, Mr. MITCHELL, Mr. VENTO, Mrs. MARTIN of Illinois, Mr. RINALDO, Mr. LONG of Maryland, Mr. MCHUGH, Mrs. COLLINS, Mr. WINN, Mr. NOWAK, Mr. FRANK, Mr. MINISH, Mr. APPLEGATE, Mr. LEACH of IOWA, Mr. KASTENMEIER, Mr. BEREUTER, Mr. REGULA, Mr. GAYDOS, Mr. FORD of Michigan, Mr. GILMAN, Mr. STUDDS, Mr. STOKES, Mr. FLORIO, Mr. PEASE, Mr. SENSENBRENNER, Mr. SMITH of New Jersey, Mr. YATRON, Mr. BOEHLERT, Mr. D'AMOURS, Mr. RINALDO, Ms. KAPTUR, Mr. ST GERMAIN, Mr. CLINGER, and Mr. WISE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SHORT TITLE

3 SECTION 1. This Act may be cited as the “Temporary Natural Gas Market Correction Act of 1982”. 
FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that—

(1) problems of market imbalance threaten the natural gas industry;

(2) such problems are likely to result in natural gas users being burdened by excessively high prices;

(3) interstate commerce is significantly affected by such problems;

(4) an urgent need exists to provide, on a temporary basis, immediate relief from natural gas contract provisions which cause those problems; and

(5) adequate information regarding the operation of the natural gas market is not available to the Congress and the public.

(b) It is the purpose of this Act to reduce the cost of natural gas supplies to end users which would otherwise occur during the forthcoming year under “take-or-pay” and other minimum charge contract provisions—

(1) by permitting natural gas pipeline companies to adjust volumes of high-price natural gas they would otherwise be required to take from producers and other suppliers, thereby facilitating new contracts (and renegotiation of existing contracts) for lower-price natural gas; and
(2) by treating any failure by such pipeline companies to provide to their customers the least-cost natural gas available under contract as if such failure were "fraud, abuse, or similar grounds" for purposes of the Natural Gas Policy Act of 1978.

Natural Gas Purchase Contracts Deemed To Include Volume Adjustment Option

Sec. 3. (a)(1) Any contract for the first sale of natural gas shall be deemed to include a volume adjustment option (as defined in subsection (b)) with respect to any natural gas the first sale delivery of which could occur pursuant to such contract at any time after the effective date of this section and before November 1, 1983.

(2) Such option shall be in addition to, and not in lieu of, any other provision of such contract; except that such option shall supersede any other provision of such contract to the extent such other provision would prohibit or restrict the operation of such option.

(b) For purposes of this section, the term "volume adjustment option" means a contract provision under which the purchaser may elect to refuse to take delivery under such contract of any volume of natural gas (or portion thereof) without incurring an obligation to pay any fee or charge with respect to the natural gas not delivered pursuant to such election.
(c) Subsection (a) shall only apply to natural gas produced in the United States (including the Outer Continental Shelf).

(d) This section shall take effect beginning on the 15th day after the date of the enactment of this Act.

Failure by a pipeline to acquire the least-cost natural gas under contract considered as fraud, abuse, or similar grounds for purposes of Federal Energy Regulatory Commission reviewing pass-through of costs

Sec. 4. (a) Except as provided under subsection (c), the purchase by any natural gas pipeline company of any natural gas which is delivered on any day on or after the effective date of this section and before November 1, 1983, at an excessive price shall be considered as fraud, abuse, or similar grounds for purposes of section 601(c)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(c)(2)).

(b) For purposes of subsection (a), the price of natural gas delivered to any natural gas pipeline company on any day shall be considered excessive if that price exceeds the price of any other natural gas not delivered to such pipeline company on that day but which could have been acquired by such pipeline company for delivery on that day under any contract to which the pipeline company is a party. Any modification of such contract after December 6, 1982, shall not be taken into
account for purposes of the preceding sentence to the extent such modification results in a higher price, lower delivered volume, or earlier termination of such contract than would otherwise occur under the terms of such contract as they were in effect December 6, 1982.

(c) Subsection (a) shall not apply to the acquisition of any natural gas if—

(1) such acquisition is determined by the Federal Energy Regulatory Commission to be justified because of field drainage requirements, because of peak-shaving demands of any pipeline, local distribution company, or end-user, or because of similar reasons; and

(2) a filing for such exception is included with the first filing made by such company under section 5(a) of this Act.

(d) This section shall take effect beginning on the fifteenth day after the date of the enactment of this Act.

MODIFICATION OF COSTS UNDER PURCHASED GAS

ADJUSTMENT CLAUSE

SEC. 5. (a) Within fifteen days after the date of the enactment of this Act, and monthly thereafter, each natural gas pipeline company shall file with the Federal Energy Regulatory Commission—

(1) a statement explaining how such pipeline company has used and will use the contract rights availa-
ble under section 3, as well as other steps it has taken
and proposes to take, to achieve the lowest possible
weighted average acquisition cost of natural gas; and
(2) a modification of the costs to be recovered by
such pipeline under a purchased gas adjustment clause,
if the weighted average acquisition cost of natural gas
by such pipeline company is lower by reason of the ex-
ercise of the contract rights available under section 3
or other steps taken by such pipeline company.
(b) Any modification made under subsection (a)(2) shall
take effect on and after the date it is filed.
(c) The filings made under this section shall specify,
with respect to each contract under which the pipeline com-
pany can acquire natural gas during the period covered by
section 3—
(1) the parties to such contract;
(2) the volumes subject to such contract;
(3) the price or prices for the natural gas subject
to such contract; and
(4) the point of delivery under such contract.
DEFINITIONS
Sec. 6. For the purposes of this Act—
(1) the term "natural gas pipeline company"
means a natural-gas company, as defined in section
2(6) of the Natural Gas Act;
(2) the terms "first sale", "deliver", and "Outer Continental Shelf" have the meanings given such terms by the Natural Gas Policy Act of 1978; and

(3) the term "purchased gas adjustment clause" has the meaning given such term under regulations issued under the Natural Gas Act.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

"SEC. 111. PRICE FREEZE ON NATURAL GAS.

"(a) Price Freeze.—Notwithstanding any other provision of law, the maximum lawful price applicable to any first sale of any natural gas from January 25, 1983, through January 1, 1985, shall be the maximum lawful price applicable to such sale on September 1, 1982.

"(b) Price Freeze on Natural Gas Not Covered by Wellhead Price Controls.—Notwithstanding any
other provision of law, the maximum lawful price from January 25, 1983, through January 1, 1985, for any first sale of natural gas from a well the surface drilling of which began prior to January 25, 1983, and for which there was no applicable maximum lawful price on September 1, 1982, solely by reason of the elimination of price controls pursuant to subtitle B of title I of this Act shall be the contract price specified for deliveries of such natural gas on September 1, 1982: Provided, however, That if there was no contract price specified for deliveries of such natural gas on such date, the maximum lawful price shall be the average of the prices paid on September 1, 1982, for deliveries of natural gas from the three nearest wells by surface location for which there similarly was no applicable maximum lawful price on September 1, 1982.

"(c) Expiration of Price Freeze.—Following the expiration of the price freeze imposed by this section, the maximum lawful price for any first sale of natural gas on September 1, 1982, shall increase from the September 1, 1982, level at the rate specified by this Act for that category of natural gas."

(b) Extension of Price Controls.—Section 121 of the Act is amended to read as follows: "January 1, 1985," becomes "January 1, 1987," and "July 1, 1987," becomes "July 1, 1989,".

(d) Extension of Report Date.—Section 123 of the Act is amended to read as follows: “July 1, 1984,” becomes “July 1, 1986,” and “January 1, 1985,” becomes “January 1, 1987.”
To amend the Natural Gas Policy Act of 1978 to define abuse for purposes of determining whether passthroughs of amounts paid to interstate pipelines for natural gas should be denied, and to deny passthroughs to interstate pipelines for actions which are imprudent.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1983

Mr. Volkmer introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Natural Gas Policy Act of 1978 to define abuse for purposes of determining whether passthroughs of amounts paid to interstate pipelines for natural gas should be denied, and to deny passthroughs to interstate pipelines for actions which are imprudent.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 That (a) paragraph (2) of section 601(c) of the Natural Gas
4 Policy Act of 1978 (relating to guaranteed passthrough; re-
5 covery of just and reasonable prices paid) is amended by
6 striking out “or similar grounds.” at the end thereof and in-
7 serting in lieu thereof “imprudence or similar grounds.”.
(b) Section 601 of such Act is amended by inserting at the end thereof the following new subsection:

"(d) ABUSE AND IMPRUDENCE DEFINED.—For purposes of subsection (c)—

"(1) the term 'abuse' includes—

(A) take-or-pay clauses which require payment for natural gas not taken,

"(B) indefinite price escalating clauses which—

"(i) provide for the establishment or adjustment of the price for natural gas delivered under a contract by reference to other prices for natural gas or any other commodity,

"(ii) allow for the establishment or adjustment of the price of natural gas delivered under such contract by negotiation between the parties, or

"(iii) allow prices to be adjusted by reference to any price index which is not approved by the Federal Energy Regulatory Commission as reliable for purposes of this subparagraph, and

"(C) the absence of market-out clauses which allow a purchaser to escape the contract or nego-
tiate a new lower price if the natural gas is not
marketable at the contract price, and
"(2) the term ‘imprudence’ includes any action
which—
"(A) is not in the public interest, or
"(B) materially prevents a pipeline from re-
sponding to changes in customer demands or
other relevant market factors.”.
(c) The amendments made by subsections (a) and (b)
shall apply after the date of the enactment of this Act.
IN THE HOUSE OF REPRESENTATIVES

February 8, 1983

Mr. SKELTON introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Natural Gas Policy Act to eliminate authority under such Act to increase ceiling prices of natural gas higher than the maximum lawful price if just and reasonable.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, 2 That (a) section 104(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3314(b)) is amended to read as follows:  3 "(b) Maximum Lawful Price.—The maximum lawful price under this section for any month shall be the higher of—
“(1)(A) the just and reasonable rate per million Btu’s, established by the Commission which was (or would have been) applicable to the first sale of such natural gas on April 20, 1977, in the case of April 1977, and

“(B) in the case of any month thereafter, the maximum lawful price, per million Btu’s, prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month, or

“(2) any just and reasonable rate which was established by the Commission after April 27, 1977, and before the date of the enactment of this Act and which is applicable to such natural gas.”.

(b) Section 106 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3316) is amended by striking out all of subsection (c).

(c) Section 109(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3319(b)) is amended to read as follows:

“(b) **Maximum Lawful Price.**—The maximum lawful price under this section for any month shall be—

“(1) $1.45 per million Btu’s, in the case of April 1977; and

“(2) in the case of any month thereafter, the maximum lawful price, per million Btu’s, prescribed
under this paragraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.".
To amend the Natural Gas Policy Act of 1978 to provide for continuation of price controls beyond 1985, to eliminate the monthly indexing of wellhead natural gas prices, to allow increases in such prices prior to the expiration of natural gas price controls only to the extent justified on the basis of increases in the cost of producing natural gas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 10, 1983

Mr. Young of Missouri introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Natural Gas Policy Act of 1978 to provide for continuation of price controls beyond 1985, to eliminate the monthly indexing of wellhead natural gas prices, to allow increases in such prices prior to the expiration of natural gas price controls only to the extent justified on the basis of increases in the cost of producing natural gas, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SHORT TITLE
4 SECTION 1. This Act may be cited as the “Natural Gas
5 Fair Pricing Act”. 
FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that—

(1) natural gas prices paid by all categories of users, and particularly by residential and commercial consumers, have escalated rapidly since the enactment of the Natural Gas Policy Act of 1978, and have increased at a rate greater than the Consumer Price Index;

(2) continued rising natural gas prices for essential residential, commercial, agricultural, and industrial uses will impose severe economic dislocations and hardships, and will adversely affect commerce;

(3) decontrol of large volumes of natural gas as provided in such Act would create a windfall for natural gas producers as a result of an enormous transfer of wealth from consumers to producers, unrelated to increases in the costs of discovering and producing natural gas;

(4) the free market premises of such Act regarding the decontrol of certain categories of natural gas have been undermined by the continued control of world petroleum prices by an international cartel;

(5) permitting domestic natural gas prices to achieve parity with cartel-controlled petroleum prices would impede national economic recovery, stimulate in-
flation, and jeopardize the ability of State and local
governments to acquire supplies of natural gas neces-
sary for vital public services; and

(6) higher natural gas prices which have occurred
under such Act have proved adequate to stimulate in-
creased drilling activity and production of natural gas.

(b) It is the purpose of this Act to provide for stability in
natural gas markets by maintaining in effect the maximum
lawful prices for natural gas established under the Natural
Gas Policy Act of 1978, and to authorize the Federal Energy
Regulatory Commission to grant cost-based price adjust-
ments of such maximum prices.

CONTINUATION OF PRICE CONTROLS

Sec. 3. (a) Subject to section 6(a) (relating to certain
previously decontrolled high-cost natural gas), subtitle B of
title I of the Natural Gas Policy Act of 1978 (relating to
decontrol of certain natural gas prices) is repealed.

(b)(1) The table of contents for such Act is amended by
striking out the item relating to subtitle A and the items
relating to subtitle B and the sections therein.

(2) Title I of such Act is amended by striking out the
heading for subtitle A.

(3) Section 101(b)(9) of such Act is amended to read as
follows:
“(9) Effect on contract price.—In the case of any price which is established under any contract for the first sale of natural gas and which does not exceed the applicable maximum lawful price under this title, such maximum lawful price shall not supersede or nullify the effectiveness of the price established under such contract.”.

(4) Section 107(d) of such Act (42 U.S.C. 3317(d)) is amended by striking out “and the provisions of subtitle B”.

(5) Section 507(a) of such Act (42 U.S.C. 3417(a)) is amended to read as follows:

“(a) APPLICATION.—This section applies with respect to any resolution of disapproval relating to incremental pricing under section 202(c) or 206(d)(2).”.

(6) Section 507(c) of such Act (42 U.S.C. 3417(c)) is amended by striking out “.—For purposes of” and all that follows through “INCREMENTAL PRICING ACTION” and inserting in lieu thereof “OF DISAPPROVAL OF INCREMENTAL PRICING ACTION”; and by striking out “paragraph” and inserting in lieu thereof “subsection”.

(7) Section 601(b)(1)(A) of such Act (42 U.S.C. 3431(b)(1)(A)) is amended by striking out “if—” and all that follows through “Act.” and inserting in lieu thereof “if such amount does not exceed the applicable maximum lawful price established under title I of this Act.”.

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(2) The section heading for such section 101 is amended by striking out “INFLATION ADJUSTMENT; OTHER”.

(3) The item in the table of sections relating to section 101 is amended by striking out “Inflation adjustment; other”.

(b)(1) Subsection (b) of each of the sections specified in paragraph (2) is amended to read as follows:

“(b) MAXIMUM LAWFUL PRICE.—Subject to section 101(a)(1), the maximum lawful price, per million Btu’s, under this section for any month beginning on or after the effective date of the Natural Gas Fair Pricing Act shall be the maximum lawful price, per million Btu’s, prescribed under this subsection for the preceding month.”.

(2) The sections specified in this paragraph are—

(A) section 102 of such Act (15 U.S.C. 3312), relating to new natural gas and certain other natural gas;

(B) section 103 of such Act (15 U.S.C. 3313), relating to new, onshore production wells and post-1984 production from wells five thousand feet or less in depth;
(C) section 104 of such Act (15 U.S.C. 3314), relating to natural gas dedicated to interstate commerce;

(D) section 105 of such Act (15 U.S.C. 3315), relating to natural gas sold under existing intrastate contracts; and

(E) section 109 of such Act (15 U.S.C. 3319), relating to other categories of natural gas.

(c) Section 106(a) of such Act (15 U.S.C. 3316(a)), relating to sales under interstate rollover contracts, is amended by striking out "shall be the higher of—" and all that follows and inserting in lieu thereof the following: "shall, subject to section 101(a)(1), be the maximum lawful price, per million Btu's, prescribed under this subsection for such natural gas for the month preceding the effective date of the Natural Gas Fair Pricing Act."

(d) Section 106(b) of such Act (15 U.S.C. 3316(b)), relating to sales under intrastate rollover contracts, is amended to read as follows:

"(b) INTRASTATE ROLLOVER CONTRACTS.—In the case of any first sale under any rollover contract of natural gas which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act, the maximum lawful price under this subsection for such natural gas delivered during any month shall, subject to section 101(a)(1), be the maximum lawful price, per million
Btu's, prescribed under this subsection for such natural gas for the month preceding the effective date of the Natural Gas Fair Pricing Act.

(e) Section 107(b) of such Act (15 U.S.C. 3317(b)), relating to certain high-cost natural gas, is amended to read as follows:

"(b) Categories of High-Cost Natural Gas Described in Section 107(c)(5).—In the case of any first sale of any category of high-cost natural gas described in section 107(c)(5), the maximum lawful price under this subsection for such natural gas delivered during any month shall, subject to section 101(a)(1), be the maximum lawful price, per million Btu's, prescribed under this subsection for such category of natural gas for the month preceding the effective date of the Natural Gas Fair Pricing Act."

(f) Section 108(a) of such Act (15 U.S.C. 3318(a)), relating to stripper well natural gas, is amended to read as follows:

"(a) General Rule.—In the case of any first sale of stripper well natural gas, subject to section 101(a)(1), the maximum lawful price, per million Btu's, under this section for any month beginning on or after the effective date of the Natural Gas Fair Pricing Act shall be the maximum lawful price, per million Btu's, prescribed under this section for the preceding month."
COMMISSION MAY PERMIT JUST AND REASONABLE INCREASES TO CEILING PRICES

Sec. 5. (a) Section 101 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3311), as amended by section 3, is further amended by inserting before subsection (b) the following new subsection:

"(a) JUST AND REASONABLE INCREASES TO CEILING PRICES PERMITTED.—

"(1) GENERAL RULE.—The Commission may, by rule, prescribe an increase to the maximum lawful price applicable to any category of natural gas under this subtitle if the Commission determines in such rule that such increase is just and reasonable within the meaning of the Natural Gas Act (except as provided in paragraph (3)(C)) and is based upon increases which have occurred in the costs of production for the category of natural gas involved.

"(2) NEW HIGH-COST NATURAL GAS DESCRIBED IN SECTION 107(c)(1)–(4).—The Commission shall, by rule, prescribe a maximum lawful price to be applicable under section 107(a) for each category of high-cost natural gas described in section 107(c) (1), (2), (3), or (4). Such maximum lawful price shall be just and reasonable within the meaning of the Natural Gas Act (except as provided in paragraph (3)(C)) and be based
(3) Standards for prescribing increases.—

(A) Procedure.—Not later than 6 months after the effective date of the Natural Gas Fair Pricing Act, the Commission shall prescribe a rule setting forth the standards which shall apply in prescribing price increases under paragraph (1) and ceiling prices under paragraph (2). During such period, the Commission shall issue a proposed rule and provide an opportunity of at least 60 days for written and oral comments on such proposed rule. A transcript shall be made of any oral presentation.

(B) Effective date.—The rule prescribed under subparagraph (A) may not take effect until after 30 calendar days of continuous session of Congress has elapsed after the date the rule is prescribed. Section 507(b) shall apply in determining the calendar days of continuous session.

(C) Criteria for standards.—The standards under the rule prescribed under this paragraph—
“(i) shall identify the particular items which will be used for determining costs of production, and
“(ii) shall not permit the consideration of the cost of any fuel or commodity other than the fuels and commodities actually used in producing the natural gas involved.
“(4) SPECIAL ADJUSTMENTS NOT PERMITTED.—Section 502(c) shall not apply to any rule under this subsection.”.

(b) Section 106 of such Act (15 U.S.C. 3316) is amended by striking out subsection (c), relating to certain increases in ceiling prices.

HIGH-COST NATURAL GAS

Sec. 6. (a) The repeal of section 121(b) of the Natural Gas Policy Act of 1978 made by section 3(a) of this Act shall not apply in the case of natural gas produced from a well the surface drilling of which commenced on or before the date of the enactment of this Act.

(b) Section 107(a) of such Act (15 U.S.C. 3317(a)), relating to certain high-cost natural gas, is amended to read as follows:

“(a) CATEGORIES OF HIGH-COST NATURAL GAS DESCRIBED IN SECTION 107(c) (1), (2), (3), or (4).—In the case of any category of high-cost natural gas described in section
107(c) (1), (2), (3), or (4), and produced from a well the surface drilling of which commenced after the date of the enactment of the Natural Gas Fair Pricing Act, the maximum lawful price under this subsection for any first sale of such natural gas delivered during any month shall be, subject to section 101(a)(1), the maximum lawful price, per million Btu's, prescribed under section 101(a)(2) for such category of natural gas.”.

(c) Section 107(c)(5) of such Act (15 U.S.C. 3317(c)), relating to determinations of additional categories of high-cost natural gas, is amended by inserting “, prior to the date of the enactment of the Natural Gas Fair Pricing Act,” after “the Commission determines”.

PRODUCTION-RELATED COSTS PERMITTED ON CASE-BY-CASE BASIS

Sec. 7. Section 110(a)(2) of such Act (15 U.S.C. 3320(a)(2)), relating to adjustment to ceiling price for production-related costs, is amended by inserting after “allowed for, by rule or order, by the Commission” the following: “pursuant to a petition filed with the Commission by such seller”.

EFFECTIVE DATE

Sec. 8. (a) The amendments made by this Act shall take effect as of the first day of the first calendar month beginning more than thirty days after the date of the enactment of this Act.
(b) Such amendments shall apply with respect to any first sale (within the meaning of the Natural Gas Policy Act of 1978) of natural gas delivered on or after the effective date under subsection (a), without regard to the date of the sale or the date of the contract under which the sale occurs.