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Legislative Prospects for Wellhead Pricing of Natural Gas

Richard G. Morgan

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LEGISLATIVE PROSPECTS FOR
WELLHEAD PRICING OF NATURAL GAS

by

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Washington, D.C.

for the

NATURAL GAS SYMPOSIUM: CONTRACT
SOLUTIONS FOR THE FUTURE
REGULATORY ENVIRONMENT

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WELLHEAD PRICING OF NATURAL GAS

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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.

- (3) Minimizes the overshooting or undershooting of prices that could occur from phased decontrol.

ii. 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.

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.

- l. 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.

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.
6. The report, "An Analysis of Natural Gas Pricing Policy Alternatives," was requested by former Rep.

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

- A. The House - Rep. John Dingell (D-Mich.), Chairman of House Energy and Commerce Committee, and Rep. Philip R. Sharp (D-Ind.), Chairman of Fossil and Synthetic Fuels Subcommittee, say "Stay the Course."
- 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.

- 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).

4. 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.
5. 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.Con.Res. 29. Expressing the sense of the Congress on natural gas prices. Sponsor: Rep. Cardiss Collins (D.-Ill.).

H.Res. 38. Expressing the sense of the House with respect to the acceleration of wellhead natural gas prices. Sponsor: Rep. Joseph M. Gaydos (D.-Pa.).

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

designs, and to report its findings, conclusion, and recommendations to the Energy & Commerce Committee. Sponsor: Rep. Julian C. Dixon (D.-Ca.).

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. 232. To prohibit increases in the well-head prices of natural gas during the six month period beginning January 1, 1983. Sponsor: Rep. Henry J. Nowak (D.-N.Y.).

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. 619. To amend the NGPA to impose a freeze on natural gas price increases. Sponsor: Rep. Robert W. Kastenmeier (D.-Wis.).

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

natural gas. Sponsor: Rep. Thomas S. Tauke (R.-Iowa).

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. 827. To amend the NGPA to prohibit enforcement of take-or-pay clauses in contracts for natural gas. Sponsor: Rep. John J. LaFalce (D.-N.Y.).

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. 909. To freeze natural gas prices. Sponsor: Rep. Harold L. Volkmer (D.-Mo.).

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 passthroughs to interstate pipelines for actions which are imprudent. Sponsor: Rep. Harold L. Volker (D.-Mo.).

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

a. S. 60. To freeze the maximum lawful price of gas at its actual level until January 1, 1985. Sponsor: Sen. Nancy Kassebaum (R.-Kansas).

S. 239. To clarify the definition of abuse in the NGPA. Sponsors: Sen. Roger W. Jepsen (R.-Iowa) and Sen. Charles Grassley (R.-Iowa).

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.
 - 3. Market-out.
 - 4. Take or Pay.
 - 5. Price Freeze.
- C. United States Supreme Court decision in Energy Reserves Group, Inc. v. Kansas Power & Light Co., 51 U.S.C.W. 4106 (U.S. Jan. 24, 1983) (No. 81-1370).
 - 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.

HOUSE COMMITTEE ON ENERGY AND COMMERCE, 98TH CONGRESS

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.

Chairman: John D. Dingell, (Mich.)

DEMOCRATS

James H. Scheuer (N.Y.)	Richard C. Shelby (Ala.)
Richard L. Ottinger (N.Y.)	Cardiss Collins (Ill.)
Henry A. Waxman (Calif.)	Michael Synar (Okla.)
Timothy E. Wirth (Colo.)	W.J. Tauzin (La.)
Philip Sharp (Ind.)	Ronald Wyden (Ore.)
James J. Florio (N.J.)	Ralph M. Hall (Texas)
Edward Markey (Mass.)	*Dennis Eckart (Ohio)
Thomas A. Luken (Ohio)	*Wayne Dowdy (Miss.)
Douglas Walgren (Pa.)	+William Richardson (N.M.)
Albert Gore, Jr. (Tenn.)	+James Slattery (Kan.)
Barbara A. Mikulski (Md.)	+Gerry Sikorski (Minn.)
Al Swift (Wash.)	+John Bryant (Texas)
Mickey Leland (Texas)	+James Bates (Calif.)

* New committee member.

+ New House and committee member.

REPUBLICANS

James T. Broyhill (N.C.)
Norman F. Lent (N.Y.)
Edward R. Madigan (Ill.)
Carlos J. Moorhead (Calif.)
Matthew J. Rinaldo (N.J.)
Tom Corcoran (Ill.)
William E. Dannemeyer (Calif.)
Bob Whittaker (Kan.)
Tom Tauke (Iowa)
Don Ritter (Pa.)
Daniel R. Coats (Ind.)
Thomas J. Bliley, Jr. (Va.)
*Jack Fields (Texas)
*Mike Oxley (Ohio)
Howard Nielson (Utah)

* New committee member.

+ New House and committee member.

HOUSE COMMITTEE ON ENERGY AND COMMERCE, 98TH CONGRESS
Subcommittee Memberships and their Jurisdiction

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Jurisdiction: Responsibility for oversight of agencies, departments, and all programs within the jurisdiction of the full Committee and for conducting such investigations within such jurisdiction.

Chairman: John D. Dingell, Mich.

Democrats

Albert Gore, Jr., Tenn.
Jim Slattery, Kans.
Gerry Sikorski, Minn.
Jim Bates, Calif.
James H. Scheuer, N.Y.
James J. Florio, N.J.
Edward J. Markey, Mass.
Doug Walgren, Pa.

Republicans

James T. Broyhill, N.C.
Bob Whittaker, Kans.
Thomas J. Billey, Jr., Va.
Michael G. Oxley, Ohio

SUBCOMMITTEE ON ENERGY CONSERVATION AND POWER

Jurisdiction: Energy conservation and renewable energy resource commercialization and utilization; utility issues and regulation of nuclear facilities; and all laws, programs, and government activities affecting such matters and nuclear energy.

Chairman: Richard L. Ottinger, N.Y.

Democrats

Al Swift, Wash.
Mike Syner, Okla.
Ron Wyden, Oreg.
Ralph M. Hall, Tex.
John Bryant, Tex.
Thomas A. Luken, Ohio
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

Edward J. Markey, Mass.
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.
Edward J. Markey, Mass.
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)

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
98TH CONGRESS

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 (Okla.)
John Heinz (Pa.)
Chick Hecht (Nev.)+
John Chafee (R.I.)*

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.

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.

98TH CONGRESS
1ST SESSION

S. 60

To amend the Natural Gas Policy Act of 1978, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26 (legislative day, JANUARY 25), 1983

Mrs. KASSEBAUM 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, 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.

6 “(a) PRICE FREEZE.—Notwithstanding any other pro-
7 vision of law, the maximum lawful price applicable to any
8 category of first sale of any natural gas in effect on October
9 1, 1982, shall continue to be the maximum lawful price for
10 that gas for the period starting October 1, 1982, through
11 January 1, 1985. Any first sale of natural gas which has a

1 price lower than the maximum lawful price in effect on Octo-
2 ber 1, 1982, may increase by the lesser of the rate provided
3 in the contract for such sale or the annual inflation adjust-
4 ment factor as determined in section 101(a)(1) but may not
5 exceed the maximum lawful price in effect on October 1,
6 1982, during the freeze period.

7 “(b) PRICE FREEZE ON NATURAL GAS NOT COVERED
8 BY WELLHEAD PRICE CONTROLS.—Notwithstanding any
9 other provision of law, the maximum lawful price for the
10 period commencing October 1, 1982, and ending January 1,
11 1985, for any first sale of any category of natural gas for
12 which a ceiling price is not specified on October 1, 1982,
13 under this title and from a well the surface drilling of which
14 began by October 1, 1982, shall be the contract price speci-
15 fied for deliveries of such natural gas on October 1, 1982, or
16 if there was no contract price specified for deliveries of such
17 natural gas on such date, the maximum lawful price shall be
18 the price paid for comparable natural gas.

19 “(c) EXPIRATION OF PRICE FREEZE.—Following the
20 expiration of the price freeze imposed by this section, the
21 maximum lawful price for any first sale of natural gas for
22 which a ceiling price is specified on October 1, 1982, shall
23 increase from the October 1, 1982, level at the rate specified
24 by this Act for that category of natural gas.”.

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

“Sec. 111. Price freeze on natural gas.”.

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

6 (1) in the matter before clause (1) of subsection (a)
7 by striking out “January 1, 1985” and inserting in lieu
8 thereof “January 1, 1987”; and

9 (2) in subsection (c), by striking out “July 1,
10 1987” and inserting in lieu thereof “July 1, 1989”.

11 (b) Section 122 of such Act is amended—

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

14 “(1) may not take effect earlier than July 1,
15 1987, nor later than June 30, 1989; and”; and

16 (2) in subsection (c), by striking out “May 31,
17 1985” both places it appears and inserting in lieu
18 thereof “May 31, 1987”.

19 (c) Section 123(a) of such Act is amended by striking
20 out “On or before January 1, 1984, and on or before Janu-
21 ary 1, 1985,” and inserting in lieu thereof “On or before
22 January 1, 1986, and on or before January 1, 1987,”.

23 SEC. 3. (a) Subsection (c)(2) of section 601 of title VI of
24 the Natural Gas Policy Act of 1978 is amended (1) by insert-
25 ing “imprudence,” immediately after “abuse,” and (2) by

1 adding at the end of subsection (c)(2) the following: "When-
2 ever the Commission determines, upon its own motion or the
3 petition of any party, that—

4 “(i)(I) Any amount paid with respect to any pur-
5 chase of natural gas is excessive due to fraud, abuse,
6 imprudence, or similar grounds under this paragraph,
7 or

8 “(II) Any rate or charge collected by any natural
9 gas company in connection with any transportation or
10 sale of natural gas is unreasonable or unjust under sec-
11 tion 4 or 5 of the Natural Gas Act; and

12 “(ii) such rate, charge, or amount paid is the
13 result of any contract between a pipeline company and
14 a producer which contains a provision which the Com-
15 mission determines prevents the pipeline company from
16 responding to the demands of customers or other
17 market forces by requiring the purchaser to pay for a
18 minimum daily contract quantity of gas whether or not
19 such gas is taken,

20 the Commission shall have the authority to take such appro-
21 priate action as it may deem necessary including the rescis-
22 sion, annulment, or modification of such contract provi-
23 sions.”.

24 (b) The Federal Energy Regulatory Commission shall
25 take such action as may be necessary, within the ninety-day

1 period following the date of the enactment of this Act, to
2 devise and put into effect an incentive rate of return applica-
3 ble to proceedings under the Natural Gas Act to stimulate
4 the purchase of the maximum amount of lower cost gas
5 which is consistent with gas availability and the need for a
6 steady supply.

○

98TH CONGRESS
1ST SESSION

S. 239

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

IN THE SENATE OF THE UNITED STATES

JANUARY 26 (legislative day, JANUARY 25), 1983

Mr. JEPSEN (for himself and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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-

1 tion arises that a contract materially prevents a pipe-
2 line from responding to changes in customer demand or
3 other market forces if the following contract clauses
4 are found in a producer-pipeline contract:

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

10 “(B) Indefinite price escalator or redetermi-
11 nation clause which is not tied to a recognized
12 and approved economic indicator.

13 “(C) Most favored nation clause where the
14 purchase price paid by any pipeline to a producer
15 is set by the highest price in a particular produc-
16 tion area.

17 Such a rebuttable presumption also arises if a contract
18 does not include a market-out-clause which allows the
19 buyer to escape the contract or to nominate a new
20 lower price if the gas is not marketable at the contract
21 price.”.

○

1 “(1) has the effect of requiring the purchaser to
2 make payment to the seller if gas volumes tendered by
3 the seller under the contract are not taken by the pur-
4 chaser; or

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

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

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

16 “(2) that permitting such contractual arrange-
17 ments, or a modification approved by the Commission,
18 to become effective is necessary either—

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

22 “(B) because of field drainage requirements
23 or similar reasons.

1 Any reinstatement or modification under clause (2) shall be
2 granted only to the extent necessary to satisfy the require-
3 ments of such clause.”.

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

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

7 SEC. 2. Subsection (c)(2) of section 601 of title VI of
8 the Natural Gas Policy Act of 1978 is amended by inserting
9 “imprudence (including failure to exercise all due prudence in
10 securing the least-cost mix of gas),” immediately after
11 “abuse,”.

○

98TH CONGRESS
1ST SESSION

S. 293

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-

1 cable to the first sale of natural gas from January 31, 1983,
2 through December 31, 1984, shall be the maximum lawful
3 price applicable to such sale on August 31, 1982, under this
4 Act. In the case of any first sale of natural gas from a well
5 the surface drilling of which began prior to January 31,
6 1983, and for which there was no applicable maximum lawful
7 price on August 31, 1982, solely by reason of the elimination
8 of price controls pursuant to subtitle B of title I of this Act,
9 the maximum lawful price for such sale from January 31,
10 1983, through December 31, 1984, shall be the contract
11 price specified for deliveries of such natural gas on August
12 31, 1982: *Provided, however,* That if there was no contract
13 price specified for deliveries of such natural gas on such date,
14 the maximum lawful price shall be the average of the prices
15 paid on August 31, 1982, for deliveries of natural gas from
16 the three nearest wells by surface location for which there
17 similarly was no applicable maximum lawful price on August
18 31, 1982.

19 “(b) EXPIRATION OF PRICE FREEZE.—The maximum
20 lawful price applicable to the first sale of natural gas on
21 August 31, 1982, shall be increased for any month beginning
22 on or after January 1, 1985 at the rate specified for such gas
23 by this Act.”.

1 (b)(1) Section 121(a) of the Natural Gas Policy Act of
2 1978 is amended by striking out "January 1, 1985" and in-
3 serting in lieu thereof "January 1, 1987".

4 (2) Section 121(c) of such Act is amended by striking
5 out "July 1, 1987" and inserting in lieu thereof "July 1,
6 1989".

7 (c)(1) Section 122(b) of the Natural Gas Policy Act of
8 1978 is amended by striking out "July 1, 1985" and insert-
9 ing in lieu thereof "July 1, 1987".

10 (2) Section 122(b) is further amended by striking out
11 "June 30, 1987" and inserting in lieu thereof "June 30,
12 1989".

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

16 (d)(1) Section 123 of the Natural Gas Policy Act of
17 1978 is amended by striking out "July 1, 1984" and insert-
18 ing in lieu thereof "July 1, 1986".

19 (2) Section 123 is further amended by striking out "Jan-
20 uary 1, 1985" and inserting in lieu thereof "January 1,
21 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".

1 FINDINGS AND PURPOSES

2 SEC. 2. (a) The Congress finds—

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

5 (2) the demand for oil and natural gas has been
6 declining in the United States in response to conserva-
7 tion and to fuel switching practices induced by high
8 prices;

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

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

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

20 (6) natural gas pipelines are acquiring supplies of
21 natural gas at prices higher than the market can sup-
22 port, and which, under the Natural Gas Policy Act of
23 1978, are automatically passed through to local natural
24 gas distribution companies and eventually to consum-

1 ers, thereby overriding the natural resistance of the
2 market;

3 (7) producers of low-priced natural gas may be
4 forced, out of necessity, to shut-in or even flare that
5 natural gas in cases in which the natural gas was con-
6 tracted for sale but the purchaser does not accept de-
7 livery, even though other purchasers might be available
8 to the seller and the original purchaser has adequate
9 capacity to transport the natural gas to such other pur-
10 chasers;

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

19 (9) therefore, the Natural Gas Policy Act of 1978
20 should be amended to provide pipelines with the ability
21 to reduce their obligations for certain high-priced natu-
22 ral gas, to authorize the Federal Energy Regulatory
23 Commission to review the exercise of such a contract
24 right by pipelines in various natural gas rate proceed-
25 ings, and to provide producers the ability to transport

1 natural gas to other purchasers whenever pipelines do
2 not accept delivery under market-out clauses.

3 (b) The purposes of this Act are—

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

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

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

19 (4) to provide a producer the ability to transport
20 natural gas to another purchaser in any case in which
21 the pipeline that had contracted for that natural gas
22 does not accept delivery because its supply exceeds its
23 demand.

1 NATURAL GAS CONTRACTS DEEMED TO INCLUDE ADJUST-
2 MENT CLAUSE TO REDUCE PURCHASE REQUIRE-
3 MENTS

4 SEC. 3. (a) Title III of the Natural Gas Policy Act of
5 1978 is amended by inserting after section 315 the following
6 new section:

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

10 "(a) INCLUSION.—Any contract for the sale of natural
11 gas to any pipeline shall be deemed to include the contract
12 provisions set forth in subsection (b), unless otherwise ex-
13 pressly provided in any such contract entered into or renegoti-
14 ated after the date of the enactment of this section. Such
15 provisions shall be in addition to, and not in lieu of, any other
16 provision of such contract.

17 "(b) PURCHASE REQUIREMENT ADJUSTMENT
18 CLAUSE.—The contract provisions deemed included in any
19 contract described in subsection (a) are as follows:

20 "(1) GENERAL RULE.—The purchaser may, with-
21 out obligation to pay, exercise a right not to accept de-
22 livery of any portion of the volumes of natural gas the
23 purchaser has contracted to accept if the purchaser has
24 determined he cannot market the total volume of natu-
25 ral gas contracted for.

1 “(2) AMOUNT OF REDUCTION.—A purchaser may
2 not reduce, pursuant to these contract provisions, the
3 volume the purchaser accepts delivery of below a level
4 equal to 50 per centum of the volume the purchaser
5 contracted to take delivery of under the contract (with-
6 out regard to any previous reduction under these con-
7 tract provisions).

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

16 “(4) AFFILIATED PRODUCERS.—The purchaser
17 may not reduce under these contract provisions the
18 volume he has contracted to take delivery of if he has
19 not exercised his right under these provisions to reduce
20 (to the maximum extent permitted under paragraph (2))
21 deliveries of natural gas he has contracted to take at
22 the same or a higher price under any other contract
23 between the purchaser and any other person who is an
24 affiliate of the purchaser.

1 “(5) CONTRACTED TO TAKE DEFINED.—For pur-
2 poses of these contract provisions, the term ‘contracted
3 to take’ refers to the volume of natural gas for which
4 the purchaser has contracted to take delivery under a
5 contract (whether or not the purchaser is obligated
6 under the contract to pay for any lesser volume in the
7 event delivery is not taken).

8 “(6) EFFECT OF TAKE-OR-PAY AND MINIMUM-
9 BILL CLAUSES.—Any provision of any contract shall
10 not apply to the extent it requires a purchaser to pay
11 any fee or other charge with respect to any natural gas
12 for which delivery is not taken pursuant to these con-
13 tract provisions.

14 “(7) LIMITATION ON CONTRACTING FOR NEW
15 SUPPLIES.—Any purchaser who has exercised his
16 right under these contract provisions to reduce the vol-
17 umes of natural gas he is obligated to take shall not
18 accept delivery during the period of such reduction of
19 any other volumes of natural gas at a price that is
20 equal to or higher than the price of the natural gas in-
21 volved in the reduction if such delivery is under any
22 contract entered into or renegotiated after the date of
23 the exercise of such right.

24 “(8) CONTRACTS COVERING MORE THAN ONE
25 CATEGORY OF NATURAL GAS.—Any contract estab-

1 lishing two or more categories of natural gas for pur-
2 poses of pricing the natural gas delivered under the
3 contract shall be treated as separate contracts for each
4 such category.

5 “(c) BAR AGAINST NONPRICE DISCRIMINATION.—
6 Nothing in this section shall be construed as allowing any
7 pipeline to discriminate against any one or class of producers
8 or other sellers of natural gas on any basis other than the
9 price of natural gas.

10 “(d) COMMISSION TO CONSIDER USE OR NONUSE OF
11 CONTRACT CLAUSE IN CERTAIN PROCEEDINGS.—Notwith-
12 standing section 601(c) or any other provision of this Act or
13 the Natural Gas Act, the Commission shall take into account
14 the use of or failure to use the contract provisions available
15 by this section by any pipeline under the jurisdiction of the
16 Commission as an element of—

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

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

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

 “Sec. 316. Natural gas contracts deemed to include adjustment clause to reduce
 purchase requirements.”.

1 NATURAL GAS CONTRACTS DEEMED TO INCLUDE TRANS-
2 PORTATION OBLIGATION TO SECONDARY PURCHAS-
3 ERS

4 SEC. 4. (a) Title III of the Natural Gas Policy Act of
5 1978 is amended by inserting after section 316 (as added by
6 section 3) the following new section:

7 "SEC. 317. NATURAL GAS CONTRACTS DEEMED TO INCLUDE
8 TRANSPORTATION OBLIGATION TO SECOND-
9 ARY PURCHASERS.

10 "(a) INCLUSION.—Any contract for the sale of natural
11 gas to any pipeline shall be deemed to include the contract
12 provisions set forth in subsection (b), unless otherwise ex-
13 pressly provided in any such contract entered into or renego-
14 tiated after the date of the enactment of this section.

15 "(b) TRANSPORTATION OBLIGATION CLAUSE.—The
16 contract provisions deemed included in any contract de-
17 scribed in subsection (a) are as follows:

18 "(1) GENERAL RULE.—Any purchaser who has
19 exercised his right under any contract provision (in-
20 cluding the contract provisions provided under section
21 316) to reduce the volumes of natural gas he is obli-
22 gated to take delivery of on the grounds that the pur-
23 chaser cannot market the total volumes he is so obli-
24 gated for shall provide, on behalf of the seller, trans-
25 portation of any of the volume of natural gas—

1 “(A) which is involved in the reduction,

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

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

8 “(2) TERMS AND CONDITIONS.—The terms and
9 conditions of such transportation shall be in accordance
10 with regulations prescribed by the Commission.

11 “(c) CONSIDERATION.—The consideration for any
12 transportation provided under the contract provisions pro-
13 vided by this section shall be at \$.05 per million Btu's plus
14 the cost of such transportation, as established by the appro-
15 priate State or Federal regulatory body, unless the Commis-
16 sion has established, by rule, a different rate as just compen-
17 sation for such transportation. No amount of such considera-
18 tion shall be required to be credited and flowed back to the
19 customers of such pipeline.”.

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

“Sec. 317. Natural gas contracts deemed to include transportation obligation to sec-
ondary purchasers.”.

98TH CONGRESS
1ST SESSION

H. CON. RES. 29

Expressing the sense of the Congress on natural gas prices.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1983

Mrs. COLLINS submitted the following concurrent resolution; which was referred to the Committee on Energy and Commerce

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

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

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

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

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

15 (4) that the use of contract provisions is eliminat-
16 ed in cases in which contract provisions, such as take-
17 or-pay clauses and indefinite price escalators, artificial-
18 ly increase natural gas prices or restrict prudent deci-
19 sionmaking in the marketplace;

1 (5) that pipelines and other natural gas companies
2 which acquire natural gas for resale purchase the least
3 expensive gas available, and justify increases in the
4 prices they charge rather than pass through such in-
5 creases automatically;

6 (6) that additional assistance is provided to indi-
7 viduals who are unable to pay the costs of residential
8 heating; and

9 (7) that weatherization activities are increased in
10 order to reduce the costs of residential heating and to
11 conserve energy.

○

98TH CONGRESS
1ST SESSION

H. RES. 38

Expressing the sense of the House of Representatives with respect to the acceleration of wellhead natural gas prices.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1983

Mr. GAYDOS submitted the following resolution; which was referred to the Committee on Energy and Commerce

RESOLUTION

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

1 *Resolved*, That it is the sense of the House of Repre-
2 sentatives that the Federal Energy Regulatory Commission
3 should take no action to accelerate the decontrol of wellhead
4 natural gas prices.

○

98TH CONGRESS
1ST SESSION

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 ratepayers: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives of*
 2 *the United States of America in Congress assembled, That*
 3 within sixty days after the date of the adoption of this joint
 4 resolution, the Commission shall commence a rulemaking re-
 5 lating to natural gas pipeline rate designs. In the course of
 6 such rulemaking, the Commission shall consider alternatives
 7 to insure that the market clearing prices in the areas of local
 8 distribution companies are reflected in such rate designs.
 9 Such alternatives shall include the following:

1 (1) Procedures to preclude pipeline companies
2 from rolling-in the price of high-cost natural gas.

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

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

10 (A) allow local distribution companies to pur-
11 chase natural gas which meets the market clear-
12 ing price standard, and

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

15 (4) Action to require pipeline companies to exer-
16 cise market-out rights in any contract for the purchase
17 of natural gas upon a showing that the contract price
18 would cause severe distortion and hardship in any rele-
19 vant natural gas market.

20 The Commission, within one hundred and eighty days after
21 the date of the commencement of this rulemaking, shall
22 report its findings and conclusions to the President of the
23 United States and to the Committee on Energy and Com-
24 merce of the House of Representatives and the Committee on

- 1 Energy and Natural Resources of the Senate, together with
- 2 any recommendations for legislation.

○

98TH CONGRESS
1ST SESSION

H. R. 131

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

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.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the “Nat-
5 ural Gas Production, Utilization, and Conservation Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 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. 101. Repeal of the Powerplant and Industrial Fuel Use Act of 1978.
 Sec. 102. Termination of incremental pricing requirements under the Natural Gas Policy Act of 1978.
 Sec. 103. Repeal of title III of the Public Utility Regulatory Policies 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 ARTIFI-**
 2 **CIAL IMPEDIMENTS ON NATU-**
 3 **RAL GAS USAGE**

4 **SEC. 101. REPEAL OF THE POWERPLANT AND INDUSTRIAL**
 5 **FUEL USE ACT OF 1978.**

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

9 (b) **EFFECTIVE DATE.**—The repeal made by subsection
 10 (a) shall take effect 60 days after the date of the enactment of
 11 this Act. Such repeal shall not apply with respect to power-

1 plants or installations for which proposed or final prohibition
2 orders have been issued under title II or III of such Act
3 before such effective date. The obligations, rights, and au-
4 thorities applicable with respect to such orders shall continue
5 to apply (including the authority of the Secretary of Energy
6 to make final any proposed prohibition order).

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

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

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

13 (1) Section 121(b) of such Act (15 U.S.C.
14 3331(b)) is amended—

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

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

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

23 (3) Section 504(b) of such Act (15 U.S.C.
24 3414(b)) is amended—

1 (A) by striking out paragraph (3) and redesi-
2 gnating subsequent paragraphs accordingly;

3 (B) in paragraph (1), by striking out “para-
4 graphs (2) and (3)” and inserting in lieu thereof
5 “paragraph (2)”; and

6 (C) in paragraph (3) (as redesignated), by
7 striking out “paragraph (1), (2), or (3)” and in-
8 serting in lieu thereof “paragraph (1) or (2)”.

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

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

13 (6) Section 601(c)(2) of such Act (15 U.S.C.
14 3431(c)(2)) is amended—

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

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

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

23 (7) The table of contents for such Act is amended
24 by striking out the items relating to title II and the
25 item relating to section 507.

1 (c) REMEDIAL ACTION.—Effective beginning on the
2 date of the enactment of this section, each interstate pipeline
3 and local distribution company which was formerly subject to
4 the provisions of title II of the Natural Gas Policy Act of
5 1978 shall take the following actions:

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

10 (A) transferring, as of such date of enact-
11 ment, all such amounts to its unrecovered pur-
12 chased gas costs account,

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

18 (C) doing all such other acts as the Commis-
19 sion may prescribe for the purpose of effecting the
20 repeal of title II of such Act as of the date of the
21 enactment of this Act.

22 (2) Each such local distribution company shall
23 clear both the unrecovered incremental gas costs ac-
24 count and the unrecovered incremental surcharges ac-
25 count of all amounts accumulated therein by—

1 (A) transferring, as of such date of enact-
2 ment, all such amounts to the account to which
3 the company's purchased gas costs are ordinarily
4 debited, and then

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

10 (d) NO FURTHER INCREMENTAL PRICING PERMIT-
11 TED.—Effective beginning on the date of the enactment of
12 this Act, no interstate pipeline or distribution company which
13 was formerly subject to the provisions of title II of such Act
14 shall—

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

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

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

21 (4) otherwise comply with the provisions of part
22 282 of title 18 of the Code of Federal Regulations or
23 other regulatory provisions which implement title II of
24 such Act.

25 (e) DEFINITIONS.—For purposes of this section—

1 (1) the term “unrecovered incremental gas costs
2 account” means the account designated as Account
3 192.1 of the Uniform System of Accounts Prescribed
4 for Natural Gas Companies, parts 201 and 204 of title
5 18 of the Code of Federal Regulations;

6 (2) the term “unrecovered incremental surcharges
7 account” means the account designated as Account
8 192.2 of the Uniform System of Accounts Prescribed
9 for Natural Gas Companies, parts 201 and 204 of such
10 title 18; and

11 (3) the term “unrecovered purchased gas costs ac-
12 count” means the account designated Account 191 of
13 the Uniform System of Accounts Prescribed for Natu-
14 ral Gas Companies, of such parts 201 and 204.

15 **SEC. 103. REPEAL OF TITLE III OF THE PUBLIC UTILITY REGU-**
16 **LATORY POLICIES ACT OF 1978.**

17 (a) **REPEALER.**—Title III of the Public Utility Regula-
18 tory Policies Act of 1978 (relating to retail policies for natu-
19 ral gas utilities) is hereby repealed.

20 (b) **CONFORMING AMENDMENT.**—The table of contents
21 for such Act is amended by striking out the items relating to
22 title III.

1 **TITLE II—INCENTIVES FOR IN-**
2 **CREASED NATURAL GAS PRO-**
3 **DUCTION**

4 **SEC. 201. DEREGULATION OF NATURAL GAS PRODUCED FROM**
5 **WELLS DRILLED ON OR AFTER JANUARY 1,**
6 **1983.**

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

10 “(f) **NATURAL GAS FROM WELLS DRILLED ON OR**
11 **AFTER JANUARY 1, 1983.**—Effective beginning on the date
12 of the enactment of this subsection, the provisions of subtitle
13 A respecting the maximum lawful price for any first sale of
14 natural gas shall cease to apply to any first sale of natural
15 gas produced from any well if—

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

18 “(2) a permit, license, or comparable authorization
19 was issued with respect to the drilling by the applica-
20 ble Federal or State agency having regulatory jurisdic-
21 tion with respect to the production of such natural
22 gas.”.

23 (b) **ADMINISTRATIVE BURDENS.**—The Federal Energy
24 Regulatory Commission shall prescribe regulations designed
25 to minimize the administrative burdens—

1 (1) which arise under any provision of law within
2 the jurisdiction of the Commission, and

3 (2) which could apply to any person whose first
4 sales of natural gas may be covered by subsection (f) of
5 section 121 of such Act, as added by subsection (a) of
6 this section.

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

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

12 **“SEC. 111. CEILING PRICES FOR CERTAIN PRE-1983 WELLS**
13 **BASED ON MARKET PRICES.**

14 “(a) **APPLICATION.**—Unless a higher maximum lawful
15 price is available pursuant to section 101(b)(5), the maximum
16 lawful price computed under subsection (b) shall apply to any
17 first sale of natural gas for any month beginning after De-
18 cember 1982.

19 “(b) **MAXIMUM LAWFUL PRICE.**—

20 “(1) **GENERAL RULE.**—The maximum lawful
21 price, per million Btu’s, under this section for any
22 month shall be the price resulting under the following
23 formula:

1 "P=DT+B

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

4 "(A) the term 'P' means, with respect to any
5 category of natural gas, the maximum lawful price
6 per million Btu's for that category of natural gas;

7 "(B) the term 'D' means, with respect to any
8 category of natural gas—

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

12 "(ii) 24, reduced by the number of cal-
13 endar months occurring between December
14 1982 and the beginning of the current calen-
15 dar quarter;

16 "(C) the term 'T' equals the number of
17 months which have elapsed in the current calen-
18 dar quarter, including the month for which the
19 maximum lawful price is being calculated; and

20 "(D) the terms 'B' and 'base price', when
21 used with respect to any category of natural gas,
22 mean—

23 "(i) in the case of the calendar quarter
24 beginning January 1983, the maximum

1 lawful price provided for that category for
2 December 1982; and

3 “(ii) in the case of each subsequent cal-
4 endar quarter, the maximum lawful price for
5 that category for the calendar month preced-
6 ing that calendar quarter.

7 “(3) DECONTROL REFERENCE PRICE.—

8 “(A) INITIALLY TO BE BASED ON SECTION
9 102 PRICE.—For each month during the first 3
10 calendar quarters of calendar year 1983, the de-
11 control reference price shall be equal to the maxi-
12 mum lawful price established under section 102
13 for that month.

14 “(B) THEREAFTER ADJUSTED TO THE
15 PRICE FOR CERTAIN EXEMPT WELLS DURING
16 PRECEDING CALENDAR QUARTER.—

17 “(i) ESTIMATE.—During the third cal-
18 endar quarter of calendar year 1983, and
19 each following calendar quarter before Octo-
20 ber 1, 1984, the Commission shall estimate
21 the weighted average first sale price for nat-
22 ural gas delivered during the preceding cal-
23 endar quarter from wells the production from
24 which is exempted from ceiling prices under
25 this subtitle pursuant to section 121(f). Esti-

1 mates under this subparagraph shall be made
2 in accordance with subsection (c).

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

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

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

13 “(2) INFORMATION COLLECTION.—

14 “(A) PRICE INFORMATION COLLECTION.—

15 In the case of the first sale of any natural gas
16 from wells the production of which is exempted
17 from ceiling prices under this subtitle pursuant to
18 section 121(f), the Commission shall require the
19 purchaser to file with the Commission, within 5
20 days after deliveries commence—

21 “(i) a copy of the contract involved, to-
22 gether with all ancillary agreements, and

23 “(ii) unless readily apparent in the con-
24 tract, a statement of (I) the price paid for
25 natural gas on the first day deliveries com-

1 mence, (II) the estimated volumes (in mil-
2 lions of Btu's) to be delivered during the first
3 12 months after deliveries commence, and
4 (III) the point of delivery under such con-
5 tract.

6 “(B) COMMISSION MAY EXEMPT CERTAIN
7 CONTRACTS INVOLVING ANNUAL DELIVERY OF
8 LESS THAN 100,000 MMBTU'S.—The Commission
9 may, by rule, provide an exemption from the re-
10 porting requirements under subparagraph (A) if it
11 determines the volumes of natural gas involved do
12 not justify burdens imposed by such requirement.
13 The Commission may not exempt any contract
14 under which the volumes to be delivered during
15 the first 12 months after deliveries commence are
16 greater than 100,000 million Btu's (including vol-
17 umes under other contracts covering natural gas
18 from the same well).

19 “(C) IMPLEMENTATION OF REPORTING RE-
20 QUIREMENTS.—Not later than 3 months after the
21 date of the enactment of the Natural Gas Produc-
22 tion, Utilization, and Conservation Act, the Com-
23 mission shall prescribe and make effective (and
24 may from time to time amend) the reporting re-
25 quirements contained in this paragraph. The re-

1 reporting requirements shall be promulgated so as
2 to enable the Commission to identify and elimi-
3 nate the duplicative reporting of purchased vol-
4 umes.

5 “(4) DETERMINATION OF WEIGHTED AVERAGE
6 PRICES.—During each calendar quarter, the Commis-
7 sion, on the basis of information filed under paragraph
8 (2), shall determine the weighted average price for first
9 sales of natural gas which occurred during the preced-
10 ing calendar quarter. Such prices shall be calculated
11 and published by the Commission at least 15 days
12 before the beginning of the next calendar quarter.

13 “(d) CATEGORIES OF NATURAL GAS.—For purposes of
14 this section, each category of natural gas established under
15 this Act for purposes of determining a maximum lawful price
16 shall be treated as a separate category.

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

23 (b) CONFORMING AMENDMENT.—The table of contents
24 for such Act is amended by inserting the following after the
25 item relating to section 110:

“Sec. 111. Ceiling prices for certain pre-1983 wells based on market prices.”.

1 (c) **EFFECTIVE DATE.**—The amendments made by this
2 section shall apply with respect to calendar months beginning
3 after December 1982. In determining the maximum lawful
4 price under such amendments for any calendar month, such
5 price shall be determined as if such amendments had been in
6 effect on and after January 1, 1983.

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

8 (a) **APPROVAL OF IMPORTS.**—

9 (1) **SUSPENSION OF APPROVAL ON IMPORTS AT**
10 **PRICES EXCEEDING QUALIFIED IMPORT PRICE.**—Any
11 order of the Federal Energy Regulatory Commission
12 which authorizes, under section 3 of the Natural Gas
13 Act, the import from a foreign country of any natural
14 gas (or liquefied natural gas) produced outside the
15 United States, shall be suspended unless the price at
16 which such natural gas is imported into the United
17 States does not exceed the qualified import price under
18 subsection (b).

19 (2) **NO NEW APPROVAL OF IMPORTS AT PRICES**
20 **EXCEEDING QUALIFIED IMPORT PRICE.**—The Federal
21 Energy Regulatory Commission may not authorize,
22 under section 3 of the Natural Gas Act, the import
23 from a foreign country of any natural gas (or liquefied
24 natural gas) produced outside the United States unless
25 the price at which such natural gas is imported into

1 the United States does not exceed the qualified import
2 price under subsection (b).

3 (b) QUALIFIED IMPORT PRICE DEFINED.—

4 (1) CONTRACT IN EFFECT.—

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

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

21 (C) CONTRACT PRICE DEFINED.—For pur-
22 poses of this paragraph, the term “contract
23 price”, when used with respect to any natural
24 gas, means the contract price (as defined in sec-

1 tion 105(c)) if such natural gas were subject to a
2 contract on such date of enactment.

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

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

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

13 “(a) **GENERAL RULE.**—Effective beginning January 1,
14 1985, the provisions of subtitle A respecting the maximum
15 lawful price shall cease to apply to the first sale of any natu-
16 ral gas.”.

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

18 (1) Section 121 of the Natural Gas Policy Act of
19 1978 (15 U.S.C. 3331) is amended by striking out sub-
20 sections (c), (d), and (e).

21 (2) Section 103(b) of such Act (15 U.S.C.
22 3313(b)) is amended by striking out paragraph (2).

23 (3) Section 105(b) of such Act (15 U.S.C.
24 3315(b)) is amended by striking out paragraph (3).

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

5 “(c) DEFINITION OF INDEFINITE PRICE ESCALATOR
6 CLAUSE.—For purposes of this section, the term ‘indefinite
7 price escalator clause’ includes any provision of any con-
8 tract—

9 “(1) which provides for the establishment or ad-
10 justment of the price for natural gas delivered under
11 such contract by reference to other prices for natural
12 gas, for crude oil, for refined petroleum products, or
13 any other energy source, or

14 “(2) which allows for the establishment or adjust-
15 ment of the price of natural gas delivered under such
16 contract by negotiation between the parties.”.

17 **SEC. 205. REPEAL OF PROVISIONS ALLOWING REIMPOSITION**
18 **OF PRICE CONTROLS.**

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

22 (b) **CONFORMING AMENDMENT.**—The table of contents
23 for such Act is amended by striking out the items relating to
24 sections 122 and 123.

1 SEC. 206. DEREGULATION OF COMMITTED OR DEDICATED
2 NATURAL GAS.

3 (a) DEREGULATION.—Section 601(a)(1)(B) of the Natu-
4 ral Gas Policy Act of 1978 (15 U.S.C. 3431(a)(1)(B)) is
5 amended to read as follows:

6 “(B) COMMITTED OR DEDICATED NATURAL
7 GAS.—Effective January 1, 1985, for purposes of
8 section 1(b) of the Natural Gas Act, the provi-
9 sions of such Act and the jurisdiction of the Com-
10 mission under such Act shall not apply by reason
11 of any first sale of natural gas which was commit-
12 ted or dedicated to interstate commerce as of the
13 day before the date of enactment of this Act.
14 Before January 1, 1985, for purposes of section
15 1(b) of the Natural Gas Act, the provisions of the
16 Natural Gas Act and the jurisdiction of the Com-
17 mission under such Act shall not apply by reason
18 of any first sale of natural gas which was commit-
19 ted or dedicated to interstate commerce as of the
20 day before the date of enactment of this Act and
21 which is—

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

24 “(ii) new natural gas (as defined in sec-
25 tion 102(c) of this Act);

1 “(iii) natural gas produced from any
2 new onshore production well (as defined in
3 section 103(c) of this Act); or

4 “(iv) natural gas produced from wells
5 drilled on or after January 1, 1983, and
6 exempted from maximum lawful prices pur-
7 suant to section 121(f).”.

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

9 (1) Effective beginning January 1, 1985, section
10 601(a)(1) of such Act (15 U.S.C. 3431(a)(1)) is amend-
11 ed by striking out subparagraph (E).

12 (2) Section 601(b)(1)(A)(ii) of such Act (15 U.S.C.
13 3431) is amended by striking out “solely”.

14 **SEC. 207. ELIMINATION OF REQUIRED MINIMUM CONTRACT**
15 **DURATION AND REQUIRED OFFERS AND**
16 **RIGHTS OF FIRST REFUSAL.**

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

20 “(a) **CONTRACT DURATION.**—The Commission may
21 not specify the minimum duration of any contract for the pur-
22 chase of natural gas to which section 601(a)(1) (A) or (B) is
23 applicable.

24 “(b) **OFFERS; RIGHT OF FIRST REFUSAL.**—In the case
25 of any person (or any successor in interest to such person)

1 who, but for the provisions of section 601(a)(1)(B) (relating to
2 deregulation), would have been entitled to receive natural gas
3 committed or dedicated to interstate commerce pursuant to
4 such commitment or dedication if such natural gas were sold,
5 the Commission may not require that such natural gas be
6 offered to be sold to such person, either directly or through
7 the granting of any right of first refusal of an offer made to
8 any other person.”.

9 **SEC. 208. COST PASSTHROUGH ALLOWED EXCEPT WHERE**
10 **FRAUD INVOLVED.**

11 (a) **FEDERAL ENERGY REGULATORY COMMISSION.**—
12 Paragraph (2) of section 601(c) of the Natural Gas Policy Act
13 of 1978 (15 U.S.C. 3431(c)) is amended by striking out
14 “except to the extent” and all that follows and by inserting
15 in lieu thereof the following: “except to the extent the Com-
16 mission determines that the amount paid was excessive due
17 to fraud.”.

18 (b) **STATE REGULATORY BODIES.**—Paragraph (2) of
19 section 601(c) of such Act (15 U.S.C. 3431(c)) is further
20 amended—

21 (1) by striking out “For purposes of” and insert-
22 ing in lieu thereof “Any agency of a State or political
23 subdivision thereof having ratemaking authority over
24 any intrastate pipeline or local distribution company
25 may not deny such pipeline or local distribution compa-

1 ny recovery of any amount paid with respect to any
 2 purchase of natural gas, and, for purposes of”;

3 (2) by inserting a comma before “if”; and

4 (3) by inserting after “Commission” the second
 5 place it appears the following: “or such ratemaking
 6 agency, as the case may be,”.

7 **SEC. 209. CERTIFICATION FOR SPECIAL PRICING PROVISIONS.**

8 Section 503 of the Natural Gas Policy Act is amended
 9 by adding at the end thereof the following new subsection:

10 “(f) **SELLER CERTIFICATION APPLICABLE FOR CER-**
 11 **TAIN PURPOSES.**—For purposes of sections 111 and 121(f),
 12 any certification made by a seller in a sworn statement to the
 13 Commission and the Federal and State agency having au-
 14 thority to make determinations referred to subsection (a)(1)
 15 shall satisfy any requirements for a determination under this
 16 section.”.

17 **TITLE III—REMOVAL OF ARTIFI-**
 18 **CIAL IMPEDIMENTS TO NATU-**
 19 **RAL GAS SALES**

20 **SEC. 301. AUTHORIZATION OF CERTAIN SALES AND TRANS-**
 21 **PORTATION.**

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

24 (1) Section 601(a)(1)(B) of the Natural Gas Policy
 25 Act of 1978 (15 U.S.C. 3431), as amended by section

1 206(a), is amended by striking out “or” at the end of
2 clause (iii), by striking out the period at the end of
3 clause (iv) and inserting “; or” in lieu thereof, and by
4 adding at the end thereof the following new clause:

5 “(v) natural gas from the Outer Conti-
6 nental Shelf if such sale is to an intrastate
7 pipeline, local distribution company, or end-
8 user located within any State.”.

9 (2) Section 601(a)(2)(A) of such Act (15 U.S.C.
10 3431) is amended by striking out “or” at the end of
11 clause (i), by striking out the period at the end of
12 clause (ii) and inserting “; or” in lieu thereof, and by
13 adding at the end thereof the following new clause:

14 “(iii) of natural gas from the Outer Con-
15 tinental Shelf that is transported on behalf of
16 any intrastate pipeline, local distribution
17 company, or end-user located within any
18 State, except that (I) the rate any pipeline
19 charges for any transportation over or across
20 the Outer Continental Shelf shall be just and
21 reasonable (within the meaning of the Natu-
22 ral Gas Act), as determined by the Commis-
23 sion, and (II) any facilities for such transpor-
24 tation over or across the Outer Continental
25 Shelf shall be constructed or operated only

1 pursuant to a certificate issued by the Com-
2 mission under section 7 of the Natural Gas
3 Act.”.

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

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

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

12 “(A) any other pipeline; and

13 “(B) any local distribution company.”.

14 (2) The heading for paragraph (2) of section
15 311(b) of such Act is amended by inserting “FOR IN-
16 TRASTATE PIPELINES” after “CHARGES”.

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

19 (A) by striking out “an amount” and insert-
20 ing in lieu thereof “any amount”; and

21 (B) in clause (i), by striking out “any intra-
22 state” and inserting in lieu thereof “an”, and by
23 inserting “storage,” after “transportation,”.

24 (4) Section 311(b) of such Act is amended by
25 redesignating paragraphs (3), (4), (5), (6), and (7) as

1 paragraphs (4), (5), (6), (7), and (8), respectively, and
2 by inserting after paragraph (2) the following new
3 paragraph:

4 “(3) RATES AND CHARGES FOR INTERSTATE
5 PIPELINES.—The rates and charges of any interstate
6 pipeline with respect to any sale authorized under
7 paragraph (1) shall be just and reasonable (within the
8 meaning of the Natural Gas Act).”.

9 (5) Paragraph (5) (as redesignated) of section
10 311(b) of such Act is amended—

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

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

16 (6) Paragraph (6) (as redesignated) of section
17 311(b) of such Act is amended—

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

21 (B) by striking out “interstate pipeline or
22 local distribution company” in clause (i) of subpar-
23 agraph (A) and inserting in lieu thereof “purchas-
24 er”;

1 (C) by striking out “intrastate pipeline” in
2 clause (ii) of subparagraph (A) and inserting in
3 lieu thereof “seller”; and

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

7 (7) Paragraph (7) (as redesignated) of section
8 311(b) of such Act is amended by striking out “intra-
9 state pipeline” in subparagraphs (A)(i), (A)(ii), and (C)
10 and inserting in lieu thereof “seller”.

11 (8) Paragraph (8) (as redesignated) of section
12 311(b) of such Act is amended by striking out “intra-
13 state pipeline” in subparagraphs (A) and (B) and in-
14 serting in lieu thereof “seller”.

15 (c) COMMISSION MAY PERMIT SECTION 312 ASSIGN-
16 MENTS TO INTRASTATE PIPELINES.—

17 (1) Section 312(a) of such Act (15 U.S.C.
18 3372(a)) is amended to read as follows:

19 “(a) AUTHORIZATION OF ASSIGNMENTS.—The Com-
20 mission may, by rule or order, authorize a pipeline or local
21 distribution company to assign, without compensation, to any
22 other pipeline or local distribution company, all or any por-
23 tion of the assignor’s right to receive surplus natural gas at
24 any first sale, upon such terms and conditions as the Com-
25 mission determines appropriate.”.

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

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

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

15 “(3) TRANSPORTATION AND SALE BY INTRA-
16 STATE PIPELINES AND LOCAL DISTRIBUTION COMPA-
17 NIES.—

18 “(A) JURISDICTION OF THE COMMISSION.—
19 For the purposes of section 1(b) of the Natural
20 Gas Act, the provisions of the Natural Gas Act
21 and the jurisdiction of the Commission under such
22 Act shall not apply to any transportation or sale
23 (including any sale for resale) of natural gas by
24 one or more intrastate pipelines or local distribu-
25 tion companies and such natural gas shall not be

1 deemed to be in interstate commerce, if all trans-
2 portation between States or between States and
3 the Federal domain in the Outer Continental Shelf
4 is performed by one or more interstate pipelines
5 pursuant to authorization by the Commission
6 under section 302(c), 303 (b), (c), (d), or (h), or
7 311(a)(1) of this Act or under section 7 of the
8 Natural Gas Act.

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

19 (e) PROHIBITION ON COMMISSION IMPOSING RESTRIC-
20 TIONS ON OUTER CONTINENTAL SHELF GAS.—Section
21 601(a) of the Natural Gas Policy Act of 1978 (15 U.S.C.
22 3431), as amended, is further amended by adding at the end
23 thereof the following new paragraph:

24 “(3) ACCESS TO OUTER CONTINENTAL SHELF
25 NATURAL GAS.—The Commission may not impose any

1 direct or indirect limitation on the right to contract for
2 sale or use of natural gas from the Outer Continental
3 Shelf, except that the Commission shall ensure that an
4 interstate pipeline may not charge for any transporta-
5 tion of such natural gas a rate in excess of a just and
6 reasonable rate (within the meaning of the Natural Gas
7 Act).”.

8 (f) **NONAPPLICABILITY OF NATURAL GAS ACT TO**
9 **CERTAIN SALES BY EXEMPT PIPELINES.**—Section 1(c) of
10 the Natural Gas Act (15 U.S.C. 717(c)) is amended by insert-
11 ing after the first sentence the following: “If the provisions of
12 this Act do not apply to any person by reason of this subsec-
13 tion, then such provisions shall not apply to any other person
14 receiving natural gas from such person solely by reason of
15 such receipt and subsequent sale or transportation.”.

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

18 (a) **EMERGENCY PURCHASE AUTHORITY.**—Section
19 302 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3362)
20 is amended—

21 (1) in subsection (a)—

22 (A) by striking out “interstate pipeline or
23 local distribution company served by any inter-
24 state pipeline” and inserting in lieu thereof “inter-

1 state or intrastate pipeline or local distribution
2 company”;

3 (B) by striking out paragraph (1) and insert-
4 ing in lieu thereof the following:

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

6 (C) in paragraph (2), by striking out “intra-
7 state” and “an interstate pipeline or”;

8 (2) in subsection (d), by striking out “any inter-
9 state pipeline” and inserting in lieu thereof “any pipe-
10 line”; and

11 (3) in subsection (e), by striking out “any intra-
12 state pipeline” and inserting in lieu thereof “any pipe-
13 line”.

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

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

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

23 (3) in subsection (c)—

24 (A) by striking out “interstate” each place it
25 appears; and

1 (B) by striking out “certificated natural gas”
2 in paragraphs (1) and (4) and inserting in lieu
3 thereof “natural gas”; and

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

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

9 (1) by striking out “or” at the end of clause (i);

10 (2) by striking out the period at the end of clause
11 (ii) and inserting in lieu thereof “; or”; and

12 (3) by adding at the end thereof the following new
13 clause:

14 “(iii) pursuant to any allocation assigned
15 under section 303.”.

16 **SEC. 303. CLAUSES PROHIBITING CERTAIN SALES, TRANSPOR-**
17 **TATION, OR COMMINGLING WHICH DO NOT**
18 **AFFECT JURISDICTION.**

19 Section 314 of the Natural Gas Policy Act of 1978 (15
20 U.S.C. 3431) is amended by redesignating subsection (b) as
21 subsection (c) and by inserting after subsection (a) the follow-
22 ing:

23 “(b) **SUBSEQUENT SALES AND TRANSPORTATION.**—

24 “(1) **IN GENERAL.**—Except as provided in para-
25 graph (2), any provision of any contract for the sale

1 (other than a first sale) or transportation of natural gas
2 is hereby declared against public policy and unenforce-
3 able with respect to any natural gas covered by this
4 Act to the extent such provision—

5 “(A) prohibits the commingling of natural
6 gas subject to such contract, or the sale or trans-
7 portation of natural gas under such contract
8 which has been commingled, with natural gas—

9 “(i) which is subject to the jurisdiction
10 of the Commission under the provisions of
11 the Natural Gas Act; or

12 “(ii) which has been transported across
13 the borders of any State;

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

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

22 “(2) ACTIVITIES AFFECTING JURISDICTION NOT
23 COVERED.—Paragraph (1) shall not apply to any con-
24 tract provision to the extent that any party to the con-
25 tract could become subject to the jurisdiction of the

1 Commission under the Natural Gas Act if that contract
2 provision were not enforceable.”.

○

1 States shall be the December 31, 1982, price applicable to
2 such natural gas.

3 (b) The provisions of the Natural Gas Policy Act of
4 1978 shall apply to violations of subsection (a) to the same
5 extent, and in the same manner, as such provisions apply to
6 violations of maximum lawful prices under title I of such Act.

7 NOVEMBER 30, 1982, PRICE DEFINED; OTHER

8 DEFINITIONS

9 SEC. 3. (a) For purposes of this Act—

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

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

16 (B) in the case of any first sale of any other
17 natural gas, means the price determined by the
18 Federal Energy Regulatory Commission to be the
19 weighted average first sale price of all natural gas
20 delivered on that date which is in the same cate-
21 gory as the natural gas involved;

22 (2) the term “category” means the category or
23 classification of natural gas prescribed by the Natural
24 Gas Policy Act of 1978 for determining the maximum
25 lawful price for such natural gas or for determining if

1 such natural gas is not subject to a maximum lawful
2 price under such Act. The Commission may further
3 define such term to the extent necessary to carry out
4 the purposes of this Act;

5 (3) the term "control period" means the period
6 beginning January 1, 1983, and ending June 30,
7 1983; and

8 (4) the terms "natural gas", "first sale", and "de-
9 liver" have the same meanings given such terms by
10 the Natural Gas Policy Act of 1978.

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

15 PRICE INCREASES SCHEDULED TO TAKE EFFECT DURING
16 CONTROL PERIOD TO BE DISREGARDED AFTER CON-
17 TROL PERIOD

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

22 (b) For purposes of subsection (a), a price increase is
23 subject to this Act if it is an increase in the first sale price of
24 natural gas which (but for this Act) would have taken effect
25 during the control period under the terms of any contract, or

1 if it is an increase in the maximum lawful price of natural gas
2 prescribed by or under the Natural Gas Policy Act of 1978,
3 which (but for this Act) would have taken effect during the
4 control period.

5 **BENEFITS OF FREEZE TO BE PASSED THROUGH**

6 **SEC. 5.** Under regulations which the Federal Energy
7 Regulatory Commission shall prescribe, the Commission shall
8 take such steps as may be necessary to assure that the reduc-
9 tions in the costs which (but for this Act) would be borne by
10 natural gas purchasers shall be passed through to such pur-
11 chasers.

○

98TH CONGRESS
1ST SESSION

H. R. 482

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1983

Mrs. BYRON (for herself, Mrs. HOLT, and Mr. DYSON) introduced the following bill; which was referred to the Committee on Energy and Commerce

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

1 retail delivery of such gas, results in a retail price for natural
2 gas that is in excess of the per million Btu equivalent price of
3 a competing fuel currently available to and usable by existing
4 retail customers served by or through any of the interstate
5 pipeline company's wholesale customers, the Commission
6 shall set the matter for hearing and decision.

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

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

16 (d) At such a hearing, the burden of proof shall be on
17 the interstate pipeline company to establish, inter alia, that
18 its gas purchase contracts with its suppliers and its gas acqui-
19 sition practices are designed to maintain its gas prices, taken
20 together with any prevailing lawfully imposed charges for the
21 retail delivery of such gas, at a level competitive with the
22 retail price of competing fuels in its service territory, and that
23 its average cost of purchased gas and its wholesale rates are
24 and will be adjustable in response to increases and decreases
25 in the retail prices of competing fuels in its service territory.

1 (e) If the Commission finds that the interstate pipeline
2 company has successfully discharged its burden of proof
3 under subsection (d) above, the Commission may approve col-
4 lection by the interstate pipeline company of all or any por-
5 tion of the proposed rate, in accordance with otherwise appli-
6 cable laws and regulations.

7 (f) If the Commission finds that the interstate pipeline
8 company has failed to discharge its burden of proof under
9 subsection (d) above, the Commission shall prescribe an ad-
10 justment in the interstate pipeline company's rates which it
11 finds is sufficient to render the interstate pipeline company's
12 rates, taken together with any prevailing lawfully imposed
13 charges for the retail delivery of such gas, competitive with
14 the retail price of competing fuels in its service territory and
15 which it finds is consistent with the long-term gas supply
16 needs of the interstate pipeline company's customers. Upon
17 the entry of such a finding, each of the interstate pipeline
18 company's gas purchase contracts shall be deemed to include
19 a provision relieving the interstate pipeline company of its
20 obligation to purchase the gas or otherwise pay any charge
21 or fee with respect to such gas (whether or not delivery is
22 taken) if, in the interstate pipeline company's sole opinion,
23 the gas is not marketable in the interstate pipeline company's
24 service territory.

1 SEC. 3. (a) Nothing in this Act shall be construed as
2 altering, or permitting the altering of, any law barring unduly
3 discriminatory pipeline rates.

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

8 (c) Nothing in this Act shall be construed as giving the
9 Commission authority to increase any rate to any customer
10 other than in accordance with a proposal filed by the inter-
11 state pipeline company .

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

18 SEC. 4. (a) For purposes of this Act, the terms "munici-
19 pality", "State", "natural gas", "gas distributing company",
20 "State commission", and "Commission" have the meanings
21 given such terms by or under the Natural Gas Act.

22 (b) For the purposes of this Act, the term "interstate
23 pipeline company" has the same meaning given such term by
24 or under the Natural Gas Policy Act.

○

98TH CONGRESS
1ST SESSION

H. R. 583

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.

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.
6 “(a) PRICE FREEZE.—Notwithstanding any other pro-
7 vision of law, the maximum lawful price applicable to any
8 first sale of any natural gas from January 6, 1983, through
9 January 1, 1985, shall be the maximum lawful price applica-
10 ble to such sale on October 1, 1982.

1 “(b) PRICE FREEZE ON NATURAL GAS NOT COVERED
2 BY WELLHEAD PRICE CONTROLS.—Notwithstanding any
3 other provision of law, the maximum lawful price from Janu-
4 ary 6, 1983, through January 1, 1985, for any first sale of
5 natural gas from a well the surface drilling of which began
6 prior to January 6, 1983, and for which there was no appli-
7 cable maximum lawful price on October 1, 1982, solely by
8 reason of the elimination of price controls pursuant to subtitle
9 B of title I of this Act shall be the contract price specified for
10 deliveries of such natural gas on October 1, 1982: *Provided,*
11 *however,* That if there was no contract price specified for
12 deliveries of such natural gas on such date, the maximum
13 lawful price shall be the average of the prices paid on Octo-
14 ber 1, 1982, for deliveries of natural gas from the three near-
15 est wells by surface location for which there similarly was no
16 applicable maximum lawful price on October 1, 1982.

17 “(c) EXPIRATION OF PRICE FREEZE.—Following the
18 expiration of the price freeze imposed by this section, the
19 maximum lawful price for any first sale of natural gas on
20 October 1, 1982, shall increase from the October 1, 1982,
21 level at the rate specified by this Act for that category of
22 natural gas.”.

23 (b) EXTENSION OF PRICE CONTROLS.—Section 121 of
24 the Act is amended to read as follows: “January 1, 1985”,

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".

○

98TH CONGRESS
1ST SESSION

H. R. 619

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1983

Mr. KASTENMEIER 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 freeze on natural gas price increases.

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

3 **FREEZE ON WELLHEAD NATURAL GAS PRICES**

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

7 **“SEC. 111. PRICE FREEZE ON NATURAL GAS.**

8 **“(a) PRICE FREEZE.**—Notwithstanding any other pro-
9 vision of law, the maximum lawful price applicable to any
10 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:

“Sec. 111. Price freeze on natural gas.”.

22 CONTINUATION OF PRICE CONTROLS

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

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

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

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

8 “(9) EFFECT ON CONTRACT PRICE.—In the case
9 of any price which is established under any contract for
10 the first sale of natural gas and which does not exceed
11 the applicable maximum lawful price under this title,
12 such maximum lawful price shall not supersede or nul-
13 lify the effectiveness of the price established under such
14 contract.”.

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

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

19 “(a) APPLICATION.—This section applies with respect
20 to any resolution of disapproval relating to incremental pric-
21 ing under section 202(c) or 206(d)(2).”.

22 (6) Section 507(c) of such Act (42 U.S.C. 3417(c)) is
23 amended by striking out “.—For purposes of” and all that
24 follows through “INCREMENTAL PRICING ACTION” and in-
25 serting in lieu thereof “OF DISAPPROVAL OF INCREMENTAL

1 PRICING ACTION"; and by striking out "paragraph" and in-
2 serting in lieu thereof "subsection".

3 (7) Section 601(b)(1)(A) of such Act (42 U.S.C.
4 3431(b)(1)A)) is amended by striking out "if—" and all that
5 follows through "Act." and inserting in lieu thereof "if such
6 amount does not exceed the applicable maximum lawful price
7 established under title I of this Act.".

○

1 greater than 50 percent of daily contract
2 quantity on an annual basis. In the case of
3 any contract between a pipeline and a pro-
4 ducer which is affiliated with the pipeline,
5 any contract provision whereby the pipeline
6 is committed to pay for a minimum quantity
7 of natural gas whether or not taken during a
8 given period or is required to pay any fee or
9 other charge with respect to natural gas for
10 which delivery is not taken.

11 “(ii) INDEFINITE PRICE ESCALATOR
12 CLAUSES.—Any indefinite price escalator
13 clause (as defined in section 105(b)(3)(B))
14 which functions on the basis of an event not
15 having economic significance to the sale of
16 the natural gas involved and which contra-
17 venes the policy of eliminating market frus-
18 trating impediments.

19 “(iii) MOST-FAVORED-NATION-
20 CLAUSES.—Any contract provision whereby
21 the purchase price paid by any pipeline to a
22 producer is set by the highest price in a par-
23 ticular production area.

24 “(B) ABSENCE OF A MARKET-OUT
25 CLAUSE.—If the provisions of the contract in-

1 volved fail to allow the buyer to escape the con-
2 tract or to negotiate a new lower price if the nat-
3 ural gas is not marketable at the contract price.”.

4 MAXIMUM CONTRACT DURATION

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

○

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

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

5 (4) an urgent need exists to provide, on a tempo-
6 rary basis, immediate relief from natural gas contract
7 provisions which cause those problems; and

8 (5) adequate information regarding the operation
9 of the natural gas market is not available to the Con-
10 gress and the public.

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

15 (1) by permitting natural gas pipeline companies
16 to adjust volumes of high-price natural gas they would
17 otherwise be required to take from producers and other
18 suppliers, thereby facilitating new contracts (and re-
19 negotiation of existing contracts) for lower-price natu-
20 ral gas; and

21 (2) by treating any failure by such pipeline compa-
22 nies to provide to their customers the least-cost natural
23 gas available under contract as if such failure were
24 "fraud, abuse, or similar grounds" for purposes of the
25 Natural Gas Policy Act of 1978.

1 NATURAL GAS PURCHASE CONTRACTS DEEMED TO
2 INCLUDE VOLUME ADJUSTMENT OPTION

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

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

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

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

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

1 FAILURE BY A PIPELINE TO ACQUIRE THE LEAST-COST
2 NATURAL GAS UNDER CONTRACT CONSIDERED AS
3 FRAUD, ABUSE, OR SIMILAR GROUNDS FOR PURPOSES
4 OF FEDERAL ENERGY REGULATORY COMMISSION RE-
5 VIEWING PASSTHROUGH OF COSTS

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

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

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

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

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

11 (d) This section shall take effect beginning on the fif-
12 teenth day after the date of the enactment of this Act.

13 **MODIFICATION OF COSTS UNDER PURCHASED GAS**

14 **ADJUSTMENT CLAUSE**

15 **SEC. 5. (a)** Within fifteen days after the date of the en-
16 actment of this Act, and monthly thereafter, each natural gas
17 pipeline company shall file with the Federal Energy Regula-
18 tory Commission—

19 (1) a statement explaining how such pipeline com-
20 pany has used and will use the contract rights availa-
21 ble under section 3, as well as other steps it has taken
22 and proposes to take, to achieve the lowest possible
23 weighted average acquisition cost of natural gas; and

24 (2) a modification of the costs to be recovered by
25 such pipeline under a purchased gas adjustment clause,

1 if the weighted average acquisition cost of natural gas
2 by such pipeline company is lower by reason of the ex-
3 ercise of the contract rights available under section 3
4 or other steps taken by such pipeline company.

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

7 (c) The filings made under this section shall specify,
8 with respect to each contract under which the pipeline com-
9 pany can acquire natural gas during the period covered by
10 section 3—

11 (1) the parties to such contract;

12 (2) the volumes subject to such contract;

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

15 (4) the point of delivery under such contract.

16 DEFINITIONS

17 SEC. 6. For the purposes of this Act—

18 (1) the term “natural gas pipeline company”
19 means a natural-gas company, as defined in section
20 2(6) of the Natural Gas Act;

21 (2) the terms “first sale”, “deliver”, and “Outer
22 Continental Shelf” have the meanings given such
23 terms by the Natural Gas Policy Act of 1978; and

1 (3) the term “purchased gas adjustment clause”
2 has the meaning given such term under regulations
3 issued under the Natural Gas Act.

○

98TH CONGRESS
1ST SESSION

H. R. 827

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Natural Gas Policy Act of 1978 (15 U.S.C. 3301
4 and following) is amended by inserting after section 315 the
5 following new section:

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

7 “(a) GENERAL RULE.—Any take-or-pay clause of any
8 contract which applies to the first sale of natural gas or any
9 subsequent sale of natural gas is hereby declared to be
10 against public policy and unenforceable.

1 “(b) TAKE-OR-PAY CLAUSE DEFINED.—As used in
2 this section, the term ‘take-or-pay clause’ means any contract
3 provision which requires payment for the minimum quantity
4 of natural gas contracted for under the contract in the event
5 the purchaser fails to take delivery.”.

6 SEC. 2. The table of contents for such Act is amended
7 by inserting after the item relating to section 315 the follow-
8 ing new item:

“Sec. 316. Take-or-pay clauses.”.

○

98TH CONGRESS
1ST SESSION

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1983

Mr. OBERSTAR (for himself, Mr. EDGAR, Mr. HORTON, Mr. CONTE, Mrs. SCHNEIDER, Mr. WOLPE, 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. APPLGATE, 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 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 "Temporary
5 Natural Gas Market Correction Act of 1982".

1 FINDINGS AND PURPOSE

2 SEC. 2. (a) The Congress finds that—

3 (1) problems of market imbalance threaten the
4 natural gas industry;5 (2) such problems are likely to result in natural
6 gas users being burdened by excessively high prices;7 (3) interstate commerce is significantly affected by
8 such problems;9 (4) an urgent need exists to provide, on a tempo-
10 rary basis, immediate relief from natural gas contract
11 provisions which cause those problems; and12 (5) adequate information regarding the operation
13 of the natural gas market is not available to the Con-
14 gress and the public.15 (b) It is the purpose of this Act to reduce the cost of
16 natural gas supplies to end users which would otherwise
17 occur during the forthcoming year under “take-or-pay” and
18 other minimum charge contract provisions—19 (1) by permitting natural gas pipeline companies
20 to adjust volumes of high-price natural gas they would
21 otherwise be required to take from producers and other
22 suppliers, thereby facilitating new contracts (and re-
23 negotiation of existing contracts) for lower-price natu-
24 ral gas; and

1 (2) by treating any failure by such pipeline compa-
2 nies to provide to their customers the least-cost natural
3 gas available under contract as if such failure were
4 “fraud, abuse, or similar grounds” for purposes of the
5 Natural Gas Policy Act of 1978.

6 NATURAL GAS PURCHASE CONTRACTS DEEMED TO
7 INCLUDE VOLUME ADJUSTMENT OPTION

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

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

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

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

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

6 FAILURE BY A PIPELINE TO ACQUIRE THE LEAST-COST
7 NATURAL GAS UNDER CONTRACT CONSIDERED AS
8 FRAUD, ABUSE, OR SIMILAR GROUNDS FOR PURPOSES
9 OF FEDERAL ENERGY REGULATORY COMMISSION RE-
10 VIEWING PASSTHROUGH OF COSTS

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

18 (b) For purposes of subsection (a), the price of natural
19 gas delivered to any natural gas pipeline company on any day
20 shall be considered excessive if that price exceeds the price of
21 any other natural gas not delivered to such pipeline company
22 on that day but which could have been acquired by such pipe-
23 line company for delivery on that day under any contract to
24 which the pipeline company is a party. Any modification of
25 such contract after December 6, 1982, shall not be taken into

1 account for purposes of the preceding sentence to the extent
2 such modification results in a higher price, lower delivered
3 volume, or earlier termination of such contract than would
4 otherwise occur under the terms of such contract as they
5 were in effect December 6, 1982.

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

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

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

16 (d) This section shall take effect beginning on the fif-
17 teenth day after the date of the enactment of this Act.

18 MODIFICATION OF COSTS UNDER PURCHASED GAS

19 ADJUSTMENT CLAUSE

20 SEC. 5. (a) Within fifteen days after the date of the en-
21 actment of this Act, and monthly thereafter, each natural gas
22 pipeline company shall file with the Federal Energy Regula-
23 tory Commission—

24 (1) a statement explaining how such pipeline com-
25 pany has used and will use the contract rights availa-

1 ble under section 3, as well as other steps it has taken
2 and proposes to take, to achieve the lowest possible
3 weighted average acquisition cost of natural gas; and

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

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

12 (c) The filings made under this section shall specify,
13 with respect to each contract under which the pipeline com-
14 pany can acquire natural gas during the period covered by
15 section 3—

16 (1) the parties to such contract;

17 (2) the volumes subject to such contract;

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

20 (4) the point of delivery under such contract.

21 DEFINITIONS

22 SEC. 6. For the purposes of this Act—

23 (1) the term “natural gas pipeline company”
24 means a natural-gas company, as defined in section
25 2(6) of the Natural Gas Act;

1 (2) the terms “first sale”, “deliver”, and “Outer
2 Continental Shelf” have the meanings given such
3 terms by the Natural Gas Policy Act of 1978; and

4 (3) the term “purchased gas adjustment clause”
5 has the meaning given such term under regulations
6 issued under the Natural Gas Act.

○

98TH CONGRESS
1ST SESSION

H. R. 909

To freeze natural gas prices.

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 freeze natural gas prices.

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.

6 “(a) PRICE FREEZE.—Notwithstanding any other pro-
7 vision of law, the maximum lawful price applicable to any
8 first sale of any natural gas from January 25, 1983, through
9 January 1, 1985, shall be the maximum lawful price applica-
10 ble to such sale on September 1, 1982.

11 “(b) PRICE FREEZE ON NATURAL GAS NOT COVERED
12 BY WELLHEAD PRICE CONTROLS.—Notwithstanding any

1 other provision of law, the maximum lawful price from Janu-
2 ary 25, 1983, through January 1, 1985, for any first sale of
3 natural gas from a well the surface drilling of which began
4 prior to January 25, 1983, and for which there was no appli-
5 cable maximum lawful price on September 1, 1982, solely by
6 reason of the elimination of price controls pursuant to subtitle
7 B of title I of this Act shall be the contract price specified for
8 deliveries of such natural gas on September 1, 1982: *Pro-*
9 *vided, however,* That if there was no contract price specified
10 for deliveries of such natural gas on such date, the maximum
11 lawful price shall be the average of the prices paid on Sep-
12 tember 1, 1982, for deliveries of natural gas from the three
13 nearest wells by surface location for which there similarly
14 was no applicable maximum lawful price on September 1,
15 1982.

16 “(c) EXPIRATION OF PRICE FREEZE.—Following the
17 expiration of the price freeze imposed by this section, the
18 maximum lawful price for any first sale of natural gas on
19 September 1, 1982, shall increase from the September 1,
20 1982, level at the rate specified by this Act for that category
21 of natural gas.”.

22 (b) EXTENSION OF PRICE CONTROLS.—Section 121 of
23 the Act is amended to read as follows: “January 1, 1985,”
24 becomes “January 1, 1987,” and “July 1, 1987,” becomes
25 “July 1, 1989.”.

1 (c) EXTENSION OF STANDBY AUTHORITY.—Section
2 122 of the Act is amended to read as follows: “July 1,
3 1985,” becomes “July 1, 1987,” “June 30, 1987,” becomes
4 “June 30, 1989,” and “May 31, 1985,” becomes “May 31,
5 1987,”.

6 (d) EXTENSION OF REPORT DATE.—Section 123 of
7 the Act is amended to read as follows: “July 1, 1984,” be-
8 comes “July 1, 1986,” and “January 1, 1985,” becomes
9 “January 1, 1987,”.

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98TH CONGRESS
1ST SESSION

H. R. 910

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."

1 (b) Section 601 of such Act is amended by inserting at
2 the end thereof the following new subsection:

3 “(d) ABUSE AND IMPRUDENCE DEFINED.—For pur-
4 poses of subsection (c)—

5 “(1) the term ‘abuse’ includes—

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

8 “(B) indefinite price escalator clauses
9 which—

10 “(i) provide for the establishment or ad-
11 justment of the price for natural gas deliv-
12 ered under a contract by reference to other
13 prices for natural gas or any other commod-
14 ity,

15 “(ii) allow for the establishment or ad-
16 justment of the price of natural gas delivered
17 under such contract by negotiation between
18 the parties, or

19 “(iii) allow prices to be adjusted by ref-
20 erence to any price index which is not ap-
21 proved by the Federal Energy Regulatory
22 Commission as reliable for purposes of this
23 subparagraph, and

24 “(C) the absence of market-out clauses which
25 allow a purchaser to escape the contract or nego-

1 tiate a new lower price if the natural gas is not
2 marketable at the contract price, and

3 “(2) the term ‘imprudence’ includes any action
4 which—

5 “(A) is not in the public interest, or

6 “(B) materially prevents a pipeline from re-
7 sponding to changes in customer demands or
8 other relevant market factors.”.

9 (c) The amendments made by subsections (a) and (b)
10 shall apply after the date of the enactment of this Act.

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98TH CONGRESS
1ST SESSION

H. R. 1359

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.

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 Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That (a) section 104(b) of the Natural Gas Policy Act of
4 1978 (15 U.S.C. 3314(b)) is amended to read as follows:

5 “(b) **MAXIMUM LAWFUL PRICE.**—The maximum
6 lawful price under this section for any month shall be the
7 higher of—

1 “(1)(A) the just and reasonable rate per million
2 Btu’s, established by the Commission which was (or
3 would have been) applicable to the first sale of such
4 natural gas on April 20, 1977, in the case of April
5 1977, and

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

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

15 (b) Section 106 of the Natural Gas Policy Act of 1978
16 (15 U.S.C. 3316) is amended by striking out all of subsection
17 (c).

18 (c) Section 109(b) of the Natural Gas Policy Act of
19 1978 (15 U.S.C. 3319(b)) is amended to read as follows:

20 “(b) **MAXIMUM LAWFUL PRICE.**—The maximum
21 lawful price under this section for any month shall be—

22 “(1) \$1.45 per million Btu’s, in the case of April
23 1977; and

24 “(2) in the case of any month thereafter, the
25 maximum lawful price, per million Btu’s, prescribed

1 under this paragraph for the preceding month multi-
2 plied by the monthly equivalent of the annual inflation
3 adjustment factor applicable for such month.”.

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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-

1 flation, and jeopardize the ability of State and local
2 governments to acquire supplies of natural gas neces-
3 sary for vital public services; and

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

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

13 CONTINUATION OF PRICE CONTROLS

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

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

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

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

1 “(9) EFFECT ON CONTRACT PRICE.—In the case
2 of any price which is established under any contract for
3 the first sale of natural gas and which does not exceed
4 the applicable maximum lawful price under this title,
5 such maximum lawful price shall not supersede or nul-
6 lify the effectiveness of the price established under such
7 contract.”.

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

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

12 “(a) APPLICATION.—This section applies with respect
13 to any resolution of disapproval relating to incremental pric-
14 ing under section 202(c) or 206(d)(2).”.

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

21 (7) Section 601(b)(1)(A) of such Act (42 U.S.C.
22 3431(b)(1)(A)) is amended by striking out “if—” and all that
23 follows through “Act.” and inserting in lieu thereof “if such
24 amount does not exceed the applicable maximum lawful price
25 established under title I of this Act.”.

1 **ELIMINATION OF AUTOMATIC INDEXING**

2 **SEC. 4. (a)(1)** Section 101 of the Natural Gas Policy
3 Act of 1978 (15 U.S.C. 3311) is amended by striking out
4 subsection (a), relating to the inflation adjustment factor.

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

7 (3) The item in the table of sections relating to section
8 101 is amended by striking out “Inflation adjustment; other”.

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

11 “(b) **MAXIMUM LAWFUL PRICE.**—Subject to section
12 101(a)(1), the maximum lawful price, per million Btu’s, under
13 this section for any month beginning on or after the effective
14 date of the Natural Gas Fair Pricing Act shall be the maxi-
15 mum lawful price, per million Btu’s, prescribed under this
16 subsection for the preceding month.”.

17 (2) The sections specified in this paragraph are—

18 (A) section 102 of such Act (15 U.S.C. 3312), re-
19 lating to new natural gas and certain other natural
20 gas;

21 (B) section 103 of such Act (15 U.S.C. 3313), re-
22 lating to new, onshore production wells and post-1984
23 production from wells five thousand feet or less in
24 depth;

1 (C) section 104 of such Act (15 U.S.C. 3314), re-
2 relating to natural gas dedicated to interstate commerce;

3 (D) section 105 of such Act (15 U.S.C. 3315), re-
4 relating to natural gas sold under existing intrastate con-
5 tracts; and

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

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

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

19 “(b) INTRASTATE ROLLOVER CONTRACTS.—In the
20 case of any first sale under any rollover contract of natural
21 gas which was not committed or dedicated to interstate com-
22 merce on the day before the date of the enactment of this
23 Act, the maximum lawful price under this subsection for such
24 natural gas delivered during any month shall, subject to sec-
25 tion 101(a)(1), be the maximum lawful price, per million

1 Btu's, prescribed under this subsection for such natural gas
2 for the month preceding the effective date of the Natural Gas
3 Fair Pricing Act.".

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

7 "(b) CATEGORIES OF HIGH-COST NATURAL GAS DE-
8 SCRIBED IN SECTION 107(c)(5).—In the case of any first sale
9 of any category of high-cost natural gas described in section
10 107(c)(5), the maximum lawful price under this subsection for
11 such natural gas delivered during any month shall, subject to
12 section 101(a)(1), be the maximum lawful price, per million
13 Btu's, prescribed under this subsection for such category of
14 natural gas for the month preceding the effective date of the
15 Natural Gas Fair Pricing Act.".

16 (f) Section 108(a) of such Act (15 U.S.C. 3318(a)), re-
17 lating to stripper well natural gas, is amended to read as
18 follows:

19 "(a) GENERAL RULE.—In the case of any first sale of
20 stripper well natural gas, subject to section 101(a)(1), the
21 maximum lawful price, per million Btu's, under this section
22 for any month beginning on or after the effective date of the
23 Natural Gas Fair Pricing Act shall be the maximum lawful
24 price, per million Btu's, prescribed under this section for the
25 preceding month.".

1 COMMISSION MAY PERMIT JUST AND REASONABLE
2 INCREASES TO CEILING PRICES

3 SEC. 5. (a) Section 101 of the Natural Gas Policy Act of
4 1978 (15 U.S.C. 3311), as amended by section 3, is further
5 amended by inserting before subsection (b) the following new
6 subsection:

7 “(a) JUST AND REASONABLE INCREASES TO CEILING
8 PRICES PERMITTED.—

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

18 “(2) NEW HIGH-COST NATURAL GAS DESCRIBED
19 IN SECTION 107(c)(1)–(4).—The Commission shall, by
20 rule, prescribe a maximum lawful price to be applicable
21 under section 107(a) for each category of high-cost nat-
22 ural gas described in section 107(c) (1), (2), (3), or (4).
23 Such maximum lawful price shall be just and reason-
24 able within the meaning of the Natural Gas Act
25 (except as provided in paragraph (3)(C)) and be based

1 upon the costs of production which have occurred for
2 the category of natural gas involved.

3 “(3) STANDARDS FOR PRESCRIBING IN-
4 CREASES.—

5 “(A) PROCEDURE.—Not later than 6 months
6 after the effective date of the Natural Gas Fair
7 Pricing Act, the Commission shall prescribe a rule
8 setting forth the standards which shall apply in
9 prescribing price increases under paragraph (1)
10 and ceiling prices under paragraph (2). During
11 such period, the Commission shall issue a pro-
12 posed rule and provide an opportunity of at least
13 60 days for written and oral comments on such
14 proposed rule. A transcript shall be made of any
15 oral presentation.

16 “(B) EFFECTIVE DATE.—The rule pre-
17 scribed under subparagraph (A) may not take
18 effect until after 30 calendar days of continuous
19 session of Congress has elapsed after the date the
20 rule is prescribed. Section 507(b) shall apply in
21 determining the calendar days of continuous ses-
22 sion.

23 “(C) CRITERIA FOR STANDARDS.—The
24 standards under the rule prescribed under this
25 paragraph—

1 107(c) (1), (2), (3), or (4), and produced from a well the sur-
2 face drilling of which commenced after the date of the enact-
3 ment of the Natural Gas Fair Pricing Act, the maximum
4 lawful price under this subsection for any first sale of such
5 natural gas delivered during any month shall be, subject to
6 section 101(a)(1), the maximum lawful price, per million
7 Btu's, prescribed under section 101(a)(2) for such category of
8 natural gas.”.

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

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

16 SEC. 7. Section 110(a)(2) of such Act (15 U.S.C.
17 3320(a)(2)), relating to adjustment to ceiling price for produc-
18 tion-related costs, is amended by inserting after “allowed for,
19 by rule or order, by the Commission” the following: “pursu-
20 ant to a petition filed with the Commission by such seller”.

21 EFFECTIVE DATE

22 SEC. 8. (a) The amendments made by this Act shall take
23 effect as of the first day of the first calendar month beginning
24 more than thirty days after the date of the enactment of this
25 Act.

1 (b) Such amendments shall apply with respect to any
2 first sale (within the meaning of the Natural Gas Policy Act
3 of 1978) of natural gas delivered on or after the effective date
4 under subsection (a), without regard to the date of the sale or
5 the date of the contract under which the sale occurs.

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