

SUBCOMMITTEE ON NATURAL GAS

March 8, 1983

Chairman Kerr said that the Subcommittee would be considering the various natural gas bills before the Energy and Natural Resources Committee to decide what sort of direction to take. He said the Subcommittee would review the status of the federal legislation and what might be expected and how it might impact on any of the concepts of the bills before the Committee. Chairman Kerr said he would like for the Subcommittee to decide: (1) which bills should be pursued further, (2) which bills might be impossible to address at the present and should be recommended for an interim study, and (3) any bills that should not receive further scrutiny.

Ramon Powers provided copies of the federal legislation before Congress which deals with natural gas and a section-by-analysis of this bill. He said the most significant items are as follows:

1. Limiting automatic pass-throughs.
2. Removing wellhead controls on all new gas and renegotiated contracts for gas with phased decontrol of existing categories.
3. Freezing or putting a lid on high-priced gas.
4. Establishing a price cap for a certain period with total deregulation on January 1, 1986.
5. Modifying certain take-or-pay provisions.
6. Providing the right to terminate all contracts during 1985.
7. Allowing the flow of gas from intrastate to interstate and vice versa in a way not available before.
8. Under certain conditions, FERC or Commission could order pipelines to transport gas.
9. Repealing restrictions on fuel use.
10. Repealing incremental pricing.

The Subcommittee agreed to take no further action on S.B. 146,

S.B. 236 and S.B. 178. The full Committee will hold hearings on H.B. 2208, which is very similar to S.B. 178. The Subcommittee also agreed to request further information on all the rest of the bills.

The next meeting of the Subcommittee will be at 7:30 a.m. on March 9, 1983.

A BILL

To correct deficiencies in the Natural Gas Policy Act of 1978, to protect natural gas consumers from price increases because of current distortions in the regulated market for natural gas, to provide for a free market for natural gas, to permit natural gas contracts to reflect the change from a regulated to a free market, to eliminate incremental pricing requirements for natural gas, to eliminate certain fuel use restrictions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Natural Gas Consumer Regulatory Reform Amendments of 1983".

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## TITLE I -- PURCHASED GAS COST

## PURCHASED GAS COST

SEC. 101. (a) Title VI of the Natural Gas Policy Act of 1978 (15 U.S.C. §3431 et seq.) is amended by adding a new section 603 to read as follows:

"SEC. 603. LIMITATION ON THE PASSTHROUGH OF CERTAIN PURCHASED GAS COSTS.

"(a) LIMITATION ON PURCHASED GAS ADJUSTMENTS. -- Notwithstanding section 601(c) of this Act, for purposes of sections 4 and 5 of the Natural Gas Act, from the first day of the first month following enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983 through December 31, 1985, the part of a pipeline's rate that reflects purchased gas costs may not exceed its allowed rate for purchased gas cost, except as provided in subsection (b).

"(b) RECOVERY OF ADDITIONAL PURCHASED GAS COST. -- A pipeline may file an application under this subsection with the Commission to increase its rates to reflect any purchased gas cost that subsection (a) of this section prevents it from recovering. Notwithstanding section 4(e) of the Natural Gas Act, no increase to the rates of a pipeline that may be recovered under this subsection may go into effect unless the Commission, after opportunity for hearing, issues an order that grants the application, in whole or in part, with such modifications and upon such terms and conditions as the Commission may find necessary and appropriate. The proceeding under this subsection shall be conducted by the Commission separately from proceedings on other rate applications that are filed under section 4 of the Natural Gas Act. In any such proceeding, the Commission shall allow recovery if it determines that the costs sought to be recovered were just,

reasonable, and prudently incurred. In making this determination, the Commission shall consider the reasonable availability of lower cost supplies to the pipeline and the necessity of such costs for the pipeline to render adequate service to its existing customers. Within sixty days of the date of the enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983, the Commission shall prescribe rules for applications under this subsection: These rules shall facilitate expeditious decisions on these applications.

"(c) DEFINITIONS. --

"(1) ALLOWED RATE FOR PURCHASED GAS. -- The term "allowed rate for purchased gas" means, for a particular pipeline, for a particular month, the pipeline's average cost per million Btu's for purchased gas delivered to the pipeline during the month preceding the enactment of the Natural Gas Consumer Regulatory Reform Act of 1983 plus the adjustment amount for that particular month.

"(2) ADJUSTMENT AMOUNT. -- The term "adjustment amount" means, for a particular month, the difference between the national rate and the adjusted national rate for that particular month.

"(3) NATIONAL RATE. -- The term "national rate" means the national average cost per million Btu's for purchased gas delivered to all interstate pipelines during the month preceding the enactment of the Natural Gas Consumer Regulatory

Reform Amendments of 1983.

"(4) ADJUSTED NATIONAL RATE. -- The term "adjusted national rate" means --

"(A) for the month in which the Natural Gas Consumer Regulatory Reform Amendments of 1983 is enacted, the national rate multiplied by the annual inflation adjustment factor (as defined in section 101(a) of this Act) for that month; and

"(B) for any particular succeeding month, the adjusted national rate for the preceding month multiplied by the annual inflation factor (as defined in section 101(a) of this Act) for that particular month.

"(d) REPORTING REQUIREMENT. -- By the fifth day following the enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983, each interstate pipeline shall report its average cost per million Btu's for purchased gas delivered to it during the month preceding the enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983 and the volume of purchased gas delivered to it during that month.

"(e) PUBLICATION. -- The Commission shall compute and publish the adjustment amount for each month at least five days before the beginning of that month.

"(f) AFFILIATED PRODUCTION. -- No interstate pipeline may recover any costs associated with its own production or purchases from any affiliated producer to the extent such production or

purchases were not reduced to a percentage of deliverability no higher than the percentage of deliverability to which the pipeline had exercised contemporaneously a contractual right to reduce its takes of less expensive gas."

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. §3301 note) is amended by inserting after the item relating to section 602 the following:

"Sec. 603. Purchased Gas Cost."

TITLE II -- REMOVAL OF WELLHEAD PRICE CONTROLS AND REPEAL  
OF JURISDICTION OVER CERTAIN FIRST SALES  
REMOVAL OF WELLHEAD PRICE CONTROLS

SEC. 201. Section 121 of the Natural Gas Policy Act of 1978 (15 U.S.C. §3331) is amended to read as follows:

"SEC. 121. ELIMINATION OF PRICE CONTROLS FOR CERTAIN NATURAL GAS SALES.

"(a) GENERAL RULE. -- The provisions of subtitle A respecting the maximum lawful price for any first sale of natural gas shall cease to apply to any first sale of natural gas subject to any contract that was executed or amended after the date of enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983, unless the contract specifically provides that the contract shall not operate to terminate the application of subtitle A.

"(b) HIGH-COST NATURAL GAS. -- Except as provided in subsection (a) of this section, with respect to the first sale of high-cost natural gas which is described in section 107(c)(1), (2),



(3), or (4), --

"(1) beginning on the effective date of the incremental pricing rule required under section 201, the provisions of subtitle A respecting the maximum lawful price for the first sale of natural gas shall cease to apply; and

"(2) beginning on the date of enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983 through December 31, 1985, the price shall not exceed the higher of the contract price on the date of the enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983 or the gas cap price, if published, for the month during which the gas is delivered.

"(c) SPECIAL RULE FOR CERTAIN GAS. -- Except as provided in subsection (a), with respect to the first sale of gas covered by this subsection, --

"(1) beginning January 1, 1985, the provision of subtitle A respecting the maximum lawful price shall cease to apply; and

"(2) beginning January 1, 1985, through December 31, 1985, the price shall not exceed the gas cap price for the month during which the gas is delivered.

"(3) GAS COVERED BY THIS SUBSECTION. -- This subsection applies to --

"(A) new natural gas (as defined in section 102(c));

"(B) natural gas produced from any new, onshore production well (as defined in section 103(c)), if such natural gas --

"(i) was not committed or dedicated to interstate commerce on April 20, 1977; and

"(ii) is produced from a completion location which is located at a depth of more than 5,000 feet; and

"(C) natural gas sold under an existing contract, any successor to an existing contract, or any rollover contract, if --

"(i) such natural gas was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act; and

"(ii) the price paid for the last deliveries of such natural gas occurring on December 31, 1984, or, if no deliveries occurred on such date, the price that would have been paid had deliveries occurred on such date is higher than \$1.00 per million Btu's.

"(d) REMOVAL OF WELLHEAD PRICE CONTROLS ON ALL NATURAL GAS. -- Except as provided in subsections (a), (b), or (c), beginning January 1, 1986, the provisions of subtitle A respecting maximum lawful price shall cease to apply to the first sale of any natural gas."

REPEAL OF NATURAL GAS ACT JURISDICTION OVER FIRST  
SALES OF COMMITTED OR DEDICATED NATURAL GAS

SEC. 202. Section 601(a)(1)(B) of the Natural Gas Policy Act of 1978 (15 U.S.C. §3431(a)(1)(B)) is amended to read as follows:

"(B) COMMITTED OR DEDICATED NATURAL GAS. --

Effective on January 1, 1985, for the purposes of section 1(b) of the Natural Gas Act, the provisions of such Act and the jurisdiction of the Commission shall not apply solely by reason of any first sale of natural gas which was committed or dedicated to interstate commerce as of the day before the date of enactment of this subsection. Effective on the date of enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983 through December 31, 1984, for the purposes of section 1(b) of the Natural Gas Act, the provisions of such Act and the jurisdiction of the Commission under such Act shall not apply solely by reason of any first sale of natural gas which is committed or dedicated to interstate commerce as of the day before the date of enactment of this Act and which is --

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

"(ii) new natural gas (as defined in section 102(c) of this Act);

"(iii) natural gas produced from any new, onshore production well (as defined in section 103(c) of this Act);

"(iv) natural gas exempted from the operation of subtitle A of title I pursuant to section 121(a);  
or

"(v) natural gas that was subject to a contract that expired, lapsed, was terminated pursuant to its own terms, or was terminated pursuant to the provisions of section 316 of this Act."

REPEAL OF PROVISIONS ALLOWING REIMPOSITION OF PRICE  
CONTROLS AND REPORT TO CONGRESS

SEC. 203. (a) Sections 122, 123, and 507 of the Natural Gas Policy Act of 1978 (15 U.S.C. §§3332, 3333, and 3417) are repealed.

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. §3301 note) is amended by striking the items relating to sections 122, 123, and 507.

TITLE III -- TRANSITIONAL PRICE AND CONTRACT PROVISIONS

LIMITATION ON CEILING PRICES FOR CERTAIN NATURAL GAS

SEC. 301. (a) Title I of the Natural Gas Policy Act of 1978 (15 U.S.C. §§3311-3333) is amended by adding the following new section:

"SEC. 111. LIMITATION ON CEILING PRICES FOR CERTAIN NATURAL GAS.

"(a) GENERAL RULE. -- Except as provided in section 121 of this Act, beginning on the date of enactment of this section, the

maximum lawful price of any first sale of natural gas subject to this subtitle shall not exceed the lower of the applicable price as calculated pursuant to sections 102 through 106, 108, and 109 or the gas cap price, if published, for the month during which the gas is delivered.

"(b) SPECIAL RULE FOR SECTION 107(c)(5) GAS. -- Except as provided in section 121 of this Act, beginning on the date of the enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983, the maximum lawful price for gas described in subsection (c)(5) of section 107 of this Act shall be no higher than the maximum lawful price for such gas during the month in which the Natural Gas Consumer Regulatory Reform Amendments of 1983 are enacted.

"(c) DEFINITION OF GAS CAP PRICE. -- The term "gas cap price" means, for a particular month, the volume-weighted average price of natural gas that is estimated to be --

"(1) delivered during the second, third, and fourth months preceding that particular month; and

"(2) delivered during the first three months of deliveries under a contract filed under subsection (e) of this section.

"(d) CALCULATION AND PUBLICATION OF THE GAS CAP PRICE. -- Beginning with the fourth month after enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983, the Commission (in accordance with section 101(a)(6) of this subtitle) shall

compute and publish the gas cap price for each month through December 1985.

"(e) FILING REQUIREMENT. -- A purchaser of natural gas subject to a first sale contract executed or amended on or after the date of the enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983 shall file with the Commission within five days of the date on which the contract is executed or amended --

"(1) a summary of the contract and all ancillary agreements, including all pricing provisions;

"(2) the prices to be paid under the contract during the first three months of deliveries;

"(3) the estimated volumes (in millions of Btu's) to be delivered during the first year of the contract; and

"(4) any additional data required by the Commission.

This filing requirement does not apply in the case of an amendment of a contract for which data previously relating to price has been filed with the Commission under this subsection.

"(f) COMMISSION RULES. -- Within thirty days of the enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983, the Commission shall issue rules to implement this section."

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. §3301 note) is amended by inserting after the item relating to section 110 the following:

"Sec. 111. Limitation on Ceiling Prices for Certain Natural Gas."

(c) Section 101(b)(5) of the Natural Gas Policy Act of 1978

(15 U.S.C. §3311(b)(5)) is amended by striking the period at the end and inserting the following:

" , but in no event shall the operation of this paragraph be deemed to entitle any seller to collect a price in excess of that established pursuant to section 111."

(d) Section 105(b)(3)(B) of the Natural Gas Policy Act of 1978 is amended by adding a new sentence at the end to read as follows:

"This definition shall not include any clause which establishes the price for natural gas exempted from the operation of this subtitle pursuant to section 121(a)."

REPEAL OF CERTAIN CONTRACT REQUIREMENTS AND IMPOSITION  
OF TAKE-OR-PAY LIMITS

SEC. 302. (a) Section 315 of the Natural Gas Policy Act of 1978 (15 U.S.C. §3375) is repealed, and a new section 315 is inserted in its place to read as follows:

"SEC. 315. IMPOSITION OF TAKE-OR-PAY LIMITS.

"(a) GENERAL RULE. -- In the case of any first sale contract in effect on the date of enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983, which has not been amended subsequent to the date of enactment, and which contains a clause requiring a purchaser to take delivery of, or if not taken, to pay for, volumes of gas in excess of 70 percent of available deliverability from those wells included under a contract, the purchaser may exercise without obligation to pay for volumes not

taken in excess of 70 percent of well deliverability, a right not to accept delivery of any portion of the total volume which exceeds 70 percent of well deliverability. This right applies only to deliveries under a contract from the date of enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983 through December 31, 1985.

"(b) NOTICE REQUIREMENT. -- Any purchaser electing to reduce volumes purchased pursuant to this section must give the seller a minimum of thirty days written notice prior to the date of delivery of the natural gas involved.

"(c) RELEASE OF CONTRACTUAL OBLIGATIONS. -- Upon receipt of the notice provided for in subsection (b), the seller shall have the right to terminate the contract with respect only to amounts not taken by reason of this section. If the seller elects to terminate the contract in accordance with this section, the purchaser shall tender to the seller full and unconditional release from all duties and obligations in contract or in law. The purchaser, if a transporter of natural gas, shall tender transportation in accordance with the provisions of section 316(d) of this Act.

"(d) DRAINAGE SITUATIONS. -- The Commission, by rule or order, may determine that this section shall not apply to the extent the production of the volume for which delivery is required to be taken is necessary in order to prevent drainage and protect the correlative rights of the person producing the



natural gas involved.

"(e) CASINGHEAD NATURAL GAS. -- This section shall not apply to casinghead natural gas.

"(f) CONTRACTS COVERING MORE THAN ONE CATEGORY OF NATURAL GAS. -- For purposes of this section, any contract establishing two or more categories of natural gas for purposes of pricing the natural gas delivered under the contract shall be treated as separate contracts for each such category."

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. §3301 note) is amended by striking the item relating to section 315 and inserting in its place the following:

"Sec. 315. Imposition of Take-or-Pay Limits."

#### MARKET-OUT PROVISION

SEC. 303. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. §§3361-3375) is amended by adding a new section 316 to read as follows:

"SEC. 316. MARKET-OUT PROVISION.

"(a) GENERAL RULE. -- Beginning January 1, 1985, either party to a contract for the first sale of natural gas which was in effect on the date of enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983 and which contract was not thereafter amended shall have the right to terminate the contract under the following conditions:

"(1) the party wishing to terminate the contract must give notice to the other party between November 16, 1984,

and November 15, 1985, and at least 45 days in advance, that the contract is to be terminated;

"(2) the party giving notice of termination does not materially breach the contract at any time prior to the end of the notice period; and

"(3) the party giving notice of termination must offer to the other party a full and unconditional release from all future duties and obligations in contract or in law relating to the contract, which release is effective upon termination of the notice period.

"(b) EFFECT OF SECTION 315 REDUCTION. -- A reduction of a take-or-pay obligation pursuant to section 315 of this Act shall not be considered an amendment for purposes of subsection (a) of this section.

"(c) OBLIGATIONS OF PARTIES UPON TERMINATION. -- Neither party to a contract terminated pursuant to this section shall have an obligation to perform any act because of the contract on and after the effective date of the termination of the contract, except that a party that has received a good or service under the contract before the effective date of its termination shall have a duty to pay for that good or service as provided for in the contract and that a party that has received payment under the contract for a good or service that was not provided before the effective date of its termination shall have a duty to make restitution of the payment in cash or in kind in accordance with

the contract.

"(d) TRANSPORTATION OBLIGATION. --

"(1) IN GENERAL. -- In the event that a contract is terminated under this section, a pipeline that was a party to the terminated contract shall have an obligation to transport natural gas for a producer that was a party to the terminated contract. The obligation of the pipeline shall not exceed on an annual basis the largest volume delivered under the contract during any twelve consecutive months in the thirty-six months prior to its termination.

"(2) LIMITATION OF OBLIGATION. -- The Commission, or in the case of an intrastate pipeline the State agency with jurisdiction over that pipeline, upon application by the pipeline and after opportunity for hearing, may order a limitation of the obligation of the pipeline under this subsection if compliance with the obligation would require construction of additional facilities or would impair the ability of the pipeline to render adequate service to its existing customers.

"(3) CONSIDERATION. -- The consideration for any transportation provided under this subsection shall be \$.05 per million Btu's plus the cost of such transportation, as established by the appropriate State or Federal regulatory body, unless the Commission has established, by rule, a different rate as just compensation for such transpor-

tation. No amount of such consideration shall be required to be credited and flowed back to the customers of such pipeline."

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. §3301 note) is amended by inserting after the item relating to section 315 the following:

"Sec. 316. Market-Out Provision."

EFFECT OF GAS CAP PRICE

SEC. 304. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. §§3361-3375) is amended by adding a new section 318 to read as follows:

"SEC. 318. EFFECT OF GAS CAP PRICE.

"(a) PRICE ESCALATOR CLAUSES. -- Except for natural gas described in section 107 of this Act, no price escalator clause may operate to establish a price for natural gas which is subject to the provisions of subtitle A respecting the maximum lawful price for the first sale of natural gas higher than the gas cap price. For purposes of this subsection, the term "price escalator clause" means any contract clause that provides for a periodic price increase, either on a fixed or indefinite basis, or that references other natural gas prices, Federally imposed price ceilings, or prices of other commodities.

"(b) AREA RATE CLAUSES. -- For purposes of an area rate clause, the gas cap price is a Federally established rate or price. After December 31, 1985, the gas cap price for December

1985 is a Federally established rate or price."

(b) The table of contents of the Natural Gas Policy Act of 1978 (U.S.C. §3301 note) is amended by inserting after the item relating to section 317 the following:

"Sec. 318. Effect of Gas Cap Price."

TITLE IV -- REMOVAL OF IMPEDIMENTS

TO INTERSTATE MOVEMENTS OF GAS

AUTHORIZATION OF CERTAIN INTERSTATE SALES,

TRANSPORTATION AND ASSIGNMENTS

SEC. 401. (a) Section 311(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. §3371(a)) is amended by --

(1) amending subparagraph (A) of paragraph (1) to read as follows:

"(A) IN GENERAL. -- The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of any person."

(2) inserting "AND LOCAL DISTRIBUTION COMPANIES" after "INTRASTATE PIPELINES" in the paragraph (2) heading;

(3) inserting in paragraph (2) "or local distribution company" after "intrastate pipeline";

(4) amending subparagraph (A) of paragraph (2) to read as follows:

"(A) IN GENERAL. -- The Commission may, by rule or order, authorize any intrastate pipeline or local distribution company to transport natural gas on behalf

of any person."

(5) in subparagraph (B)(ii)(I) and (II) of paragraph (2), inserting "or company" after "pipeline".

(b) Section 311(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. §3371(b)) is amended by --

(1) amending paragraph (1) to read as follows:

"(1) IN GENERAL. -- The Commission may, by rule or order, authorize any pipeline or local distribution company to sell natural gas to any pipeline or local distribution company.

(2) amending paragraph (2) by --

(A) striking "MAXIMUM FAIR AND EQUITABLE PRICE" after the subparagraph designator "A" and inserting in its place "INTRASTATE PIPELINES AND LOCAL DISTRIBUTION COMPANIES";

(B) inserting "or local distribution company" following "pipeline" and "or local distribution company's" following "pipeline's" wherever they appear; and

(C) inserting "(including storage)" after "transportation" in clause (i) of subparagraph (B);

(D) adding a new subparagraph (D) to read as follows:

"(D) INTERSTATE PIPELINES. -- The rates and charges of any interstate pipeline with respect to any sales authorized under subsection (b)(1)(A) shall be just and reasonable (within the meaning of the Natural Gas

Act).";

(3) in paragraph (4), striking "pipeline's" and inserting in its place "seller's", and striking "INTRASTATE" in the heading and inserting in its place "EXISTING";

(4) in paragraphs (4)-(7), except for subparagraph (5)(a)(i), striking "intrastate pipeline" or "pipeline" wherever they appear and inserting in their place "seller";

(5) in paragraph (5)(A)(i), striking "interstate pipeline or local distribution" and inserting in its place "purchasing"; and

(6) adding a new paragraph (8) to read as follows:

"(8) DEFINITION OF SELLER. -- For purposes of this subsection, the term 'seller' means any person that sells gas under paragraph (b)(1)."

(c) Section 312 of the Natural Gas Policy Act of 1978 (15 U.S.C. §3372) is amended --

(1) by amending subsection (a) to read as follows:

"(a) AUTHORIZATION OF ASSIGNMENTS. -- The Commission may, by rule or order, authorize a pipeline or local distribution company to assign, without compensation, to any other pipeline or local distribution company, all or any portion of the assignor's right to receive surplus natural gas at any first sale, upon such terms and conditions as the Commission determines appropriate."; and

(2) by amending subsection (c) to read as follows:

"(c) SURPLUS NATURAL GAS. -- For purposes of this section,

the term 'surplus natural gas' means, with respect to any pipeline or local distribution company, any natural gas which exceeds the then current demands of such person for natural gas, as determined by --

"(1) the Commission, or

"(2) the State agency having regulatory jurisdiction over that person."

#### ACCESS TO INTERSTATE SUPPLY SOURCES

SEC. 402. (a) Section 314 of the Natural Gas Policy Act of 1978 (15 U.S.C. §3374) is amended by --

(1) striking "first" in subsection (a), and

(2) amending subsection (b) to read as follows:

"(b) NATURAL GAS COVERED BY THIS ACT. -- For purposes of subsection (a), the term 'natural gas covered by this Act' means --

"(1) for any first sale contract, natural gas --

"(A) which is not subject to the jurisdiction of the Commission under the Natural Gas Act by reason of section 601(a)(1)(A) or (B);

"(B) the sale in interstate commerce of which --

"(i) is authorized under section 302(a) or 311(b); or

"(ii) is pursuant to an assignment under section 312(a); or

"(C) the transportation in interstate commerce of which is --



"(i) pursuant to any order under section 302(c) or section 303(b), (c), (d), or (h), or

"(ii) authorized by the Commission under section 311(a); or

"(2) for any contract, natural gas the sale or transportation of which under the contract is not in interstate commerce by reason of section 601(d) of this Act."

(b) Section 601 of the Natural Gas Policy Act of 1978 (15 U.S.C. §3431) is amended by adding new subsections (d) and (e) to read as follows:

"(d) LIMITATION OF COMMISSION JURISDICTION OVER INTRASTATE TRANSACTIONS. --

"(1) GENERAL RULE. -- No intrastate pipeline or local distribution company shall be subject to the jurisdiction of the Commission under the Natural Gas Act by reason of purchasing natural gas in a covered transaction.

"(2) SUBSEQUENT TRANSACTIONS. -- Any transportation or sale of natural gas purchased in a covered transaction which occurs beyond the point at which such gas is received in the facilities of the purchaser in the covered transaction shall not be in interstate commerce (within the meaning of the Natural Gas Act) and shall not be subject to the jurisdiction of the Commission under the Natural Gas Act to the extent that such gas remains in the State of purchase.

"(3) NATURAL-GAS COMPANY. -- For purposes of the Natural

Gas Act, the term "natural-gas company" (as defined in section 2(6) of that Act) shall not include any person by reason of, or with respect to, any transportation or sale of natural gas if the transportation or sale is not subject to the jurisdiction of the Commission solely by reason of paragraph (2) of this subsection.

"(4) STATE OF PURCHASE RULE. -- For purposes of this subsection, natural gas shall be deemed to remain in the State of purchase if the gas is not transported outside the State in which it was received into the facilities of the purchaser of the gas in a covered transaction, unless such transportation occurs in connection with --

"(A) transportation authorized under sections 302(a) or 311(a) of this Act, or

"(B) a sale or assignment authorized under sections 311(b) or 312 of this Act.

"(5) DEFINITION OF COVERED TRANSACTION. -- For purposes of this subsection, the term "covered transaction" means --

"(A) a first sale of gas --

"(i) which is not subject to the jurisdiction of the Commission under the Natural Gas Act by reason of subparagraphs (A) or (B) of paragraph (1) of subsection (a),

"(ii) which is produced on the outer Continental Shelf, or

"(iii) which is transported pursuant to an order issued under section 317 of this Act;

"(B) a sale or assignment authorized under sections 302(a), 311(b), or 312(a) of this Act; or

"(C) a sale for resale by any person not subject to the jurisdiction of the Commission solely by reason of section 1(c) of the Natural Gas Act.

"(e) NONDISCRIMINATION PROVISION. -- The Commission may not condition or deny any authorization of the sale or transportation of natural gas under this Act or the Natural Gas Act on the basis of whether the gas is consumed in the interstate market or the intrastate market."

#### CONTRACT CARRIER AUTHORIZATION

SEC. 403. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. §§3361-3375) is amended by adding a new section 317 to read as follows:

"SEC. 317. CONTRACT CARRIER AUTHORIZATION.

"(a) IN GENERAL. -- Upon application by a producer of natural gas or by a purchaser of natural gas from a producer, the Commission shall order any interstate pipeline to carry gas under contract between producer and purchaser upon such terms and subject to such conditions as it considers just and reasonable if the Commission finds that such pipeline has available capacity, that no undue burden will be placed upon such pipeline, that no construction of new facilities would be required, and that such

order would not impair the ability of such pipeline to render adequate service to its existing customers. The Commission may implement this section by rule or order.

"(b) CONSIDERATION. -- The consideration for any transportation provided under this section shall be \$.05 per million Btu's plus the cost of such transportation, as established by the Commission, unless the Commission has established, by rule, a different rate as just compensation for such transportation. No amount of such consideration shall be required to be credited and flowed back to the customers of such pipeline."

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. §3301 note) is amended by inserting after the item relating to section 316 the following:

"Sec. 317. Contract Carrier Authorization."

TITLE V -- REPEAL OF CERTAIN RESTRICTIONS ON NATURAL GAS  
AND PETROLEUM USE AND PRICING

REPEAL OF CERTAIN SECTIONS OF THE POWERPLANT AND INDUSTRIAL FUEL  
USE ACT OF 1978

SEC. 501. (a) The following sections of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8301 et seq.) are repealed:

- (1) sections 102(a)(16), (a)(18), (a)(19), and (a)(29) (42 U.S.C. §8302(a)(16), (a)(18), (a)(19), and (a)(29));
- (2) sections 201 and 202 (42 U.S.C. §§8311 and 8312);

- (3) section 302 (42 U.S.C. §8342);
- (4) section 401 (42 U.S.C. §8371);
- (5) section 402 (42 U.S.C. §8372); and
- (6) section 405 (42 U.S.C. §8375).

(b) The table of contents in section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8301(b)) is amended by striking the items relating to the sections repealed by subsection (a) of this section.

#### CONFORMING AMENDMENTS

SEC. 502. (a) Section 102 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8301) is amended by striking "and major fuel-burning installations" and "and new" wherever these phrases appear.

(b) Section 103 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8302) is amended --

- (1) in subsection (a)(13)(B), by --
  - (A) striking clause (ii)(III);
  - (B) striking "; or" at the end of clause (ii)(II), and inserting a period in its place; and
  - (C) inserting "and" at the end of clause (ii)(I);
- (2) in subsection (a)(15), by striking "or major fuel-burning installation" and "or new" wherever these phrases appear;
- (3) in subsection (a)(20), by striking "or major fuel-burning installation";

(4) by redesignating subsections (a)(17), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), (a)(25), (a)(26), (a)(27), and (a)(28) as subsections (a)(16), (a)(17), (a)(18), (a)(19), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), and (a)(25);

(5) in subsection (b), by striking or "major fuel-burning installation" wherever this phrase appears;

(6) in subsection (b)(1)(D), by striking everything after "synthetic gas involved" and inserting in its place a period; and

(7) by striking subsection (b)(3), and redesignating subsection (b)(4) as subsection (b)(3).

(c) Section 104 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8303) is amended to read as follows:

"The provisions of this Act shall apply in all the States, Puerto Rico, and the territories and possessions of the United States."

(d) Section 303 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8343) is amended --

(1) by striking "or installation" and "or installations" wherever the phrases appear;

(2) by striking "or 302" wherever the phrase appears;

(3) by striking subsection (a)(3);

(4) by amending subsection (b)(1) to read as follows:

"(1) The Secretary may prohibit, by rule, the use of natural gas or petroleum under section 301(b) in existing

electric powerplants.";

(5) in subsection (b)(3), by striking "or major fuel-burning installation"; and

(6) by amending the last sentence of subsection (b)(3) to read as follows:

"Any such rules shall not apply in the case of any existing electric powerplant with respect to which a comparable prohibition was issued by order."

(e) Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8373) is amended by striking --

(1) in subsection (a)(1), "major fuel-burning installation, or other unit" and the comma immediately preceding this phrase and "installation, or unit" and the comma immediately preceding this phrase;

(2) in subsection (a)(2), "installation, or other unit" and the comma immediately preceding that phrase, and "installation, or unit" and the comma immediately preceding that phrase;

(3) in subsection (a)(2), the last sentence; and

(4) subsection (a)(3).

(f) Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8374) is amended by striking --

(1) in subsection (c), "new or" in the phrase "applicable to any new or existing electric powerplant"; and

(2) subsection (g).

(g) Section 701 of the Powerplant and Industrial Fuel Use

Act of 1978 (42 U.S.C. §8411) is amended by striking --

- (1) in the last sentence of subsection (b), "or installation";
- (2) subsection (c);
- (3) in the title of subsection (d), "AND EXEMPTIONS";
- (4) in the first sentence of subsection (d)(1), "or any petition for any order granting an exemption (or permit)";
- (5) in subsection (d)(1)(B), "or in the consideration of such petition";
- (6) in subsection (f), "or a petition for an exemption (or permit) under this Act (other than under section 402 or 404),"; and
- (7) subsection (g).

(h) Section 702 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8412) is amended by striking --

- (1) in the title of subsection (a), "OR EXEMPTION";
- (2) in subsection (a), "or granting an exemption (or permit)";
- (3) subsection (b), and redesignating subsection (c) as subsection (b);
- (4) in the first sentence of subsection (b)(1) (as redesignated), "or by the denial of a petition for an order granting an exemption (or permit) referred to in subsection (b),";
- (5) in the first sentence of subsection (b)(1) (as



redesignated), "such rule, order, or denial is published under subsection (a) or (b)" and inserting in its place "such rule, or order is published under subsection (a)";

(6) in the first sentence of subsection (b)(2) (as redesignated), "the rule, order, or denial" and inserting in its place "the rule or order";

(7) in the second sentence of subsection (b)(2) (as redesignated), "(or denial thereof)"; and

(8) in subsection (b)(3) (as redesignated), "any such rule, order, or denial" and inserting in its place "any such rule or order".

(i) Section 711 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8421) is amended by striking in the first sentence of subsection (a), "or major fuel-burning installation".

(j) Section 721 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8431) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(k) Section 723 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8433) is amended by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c).

(l) Section 731 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8441) is amended by striking --

(1) "or major fuel-burning installation" wherever the phrase appears; and

(2) "title II or" in subsections (a)(1) and (g)(3).

(m) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8455) is amended by striking in the first sentence of subsection (a), "from new and existing electric powerplants and major fuel-burning installations" and inserting in its place "from existing electric powerplants".

(n) Section 761 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. §8471) is amended by striking --

(1) in subsection (a), "any existing or new electric powerplant or major fuel-burning installation" and inserting in its place "any existing electric powerplant"; and

(2) in subsection (b) --

(1) "new or" in the phrase "In the case of any new or existing facility"; and

(2) "except to the extent provided under section 212(b) or section 312(b)" and the comma immediately preceding that phrase.

#### REPEAL OF INCREMENTAL PRICING REQUIREMENTS

SEC. 503. (a) Subject to subsections (b) and (c) of this section, title II of the Natural Gas Policy Act of 1978 (15 U.S.C. §§3341-3348) is repealed, and the items relating to title II are stricken from the table of contents of that Act.

(b) A rule promulgated by the Commission under title II of the Natural Gas Policy Act of 1978 shall continue in effect only with respect to the flow-through of costs incurred before the

enactment of the Natural Gas Consumer Regulatory Reform Amendments of 1983, including any surcharges based on such costs.

(c) The Commission may take appropriate action to implement this section.

SECTION-BY-SECTION

NATURAL GAS CONSUMER REGULATORY REFORM AMENDMENTS OF 1983

## TITLE I -- PURCHASED GAS COSTS

Section 101 would amend Title VI of the Natural Gas Policy Act of 1978 (NGPA) to add a new section 603, entitled "Limitation on the Passthrough of Certain Purchased Gas Costs." This section would impose a moratorium until 1986 on the automatic passthrough to natural gas customers of price increases that result from an interstate pipeline's paying higher prices for natural gas. A pipeline could increase the price to its customers to reflect higher acquisition costs for natural gas only if the Federal Energy Regulatory Commission ("Commission") approved recovery of such costs after a hearing in which the Commission considered the question of whether these higher costs were just, reasonable, and prudently incurred.

Currently, a pipeline can recover its costs of acquiring natural gas at the wellhead and from other pipelines ("purchased gas costs") by means of either a general rate proceeding or a purchased gas adjustment ("PGA") proceeding. A general rate proceeding reviews all aspects of a pipeline's operation, while a PGA proceeding considers only a pipeline's purchased gas costs. A pipeline can apply in either type of proceeding to raise its rate to reflect increased purchased gas costs and the rate increase can, and in a PGA proceeding usually does, go into effect after a one day suspension, subject to refund if the Commission ultimately determines the change in rate is not just and reasonable. Alternatively, the Commission

can suspend the effectiveness of the rate increase for no more than five months, at which time the rate goes into effect subject to refund.

Section 603(a) would prohibit the immediate passthrough of purchased gas costs to the extent such costs have increased at a rate higher than the rate of inflation. Section 603(b) would provide that rate increases prohibited by section 603(a) could not go into effect unless the Commission made an affirmative determination, after providing an opportunity for hearing to interested persons, that the costs were just, reasonable, and prudently incurred. In making this determination the Commission would be required to consider the availability of lower priced gas and the need of the pipeline to acquire the gas in order to render adequate service to its existing customers. The Commission also could consider other factors, including the physical depletion of old gas. In order to minimize the amount of time a pipeline would have to wait to find out whether the pass through of any costs in excess of inflation would be allowed, this section would establish a special Commission proceeding to review applications to pass through such costs. The Commission would be required to adopt rules for such proceedings that would facilitate expeditious decisions.

Section 603 would not affect all increases to a pipeline's rate, but only increases in the purchased gas cost component

of the rate that exceeded the pipeline's allowed rate for purchased gas costs. Each pipeline would have a different allowed rate. Section 603(d) would define the term "allowed rate" as the average price a particular pipeline paid for gas delivered to it during the month preceding the enactment of this Bill plus an "adjustment amount" to reflect inflation. Section 603(d) would define the "adjustment amount," which would be the same for each pipeline, as the difference between the average price all pipelines paid for gas delivered during the month preceding the enactment of this Bill and that average price adjusted to reflect inflation since the enactment of this Bill.

Subsection (f) would establish a rateable purchase requirement for interstate pipelines. Under this requirement, an interstate pipeline would be required to reduce its own production or purchases from any affiliated producer to a percentage of deliverability no higher than the percentage of deliverability to which the pipeline had exercised contemporaneously a contractual right to reduce its takes of less expensive gas. If a pipeline violated this rateable purchase requirement, it would be prohibited from passing through any purchased gas costs that resulted from the violation.

TITLE II -- REMOVAL OF WELLHEAD PRICE CONTROLS  
AND REPEAL OF JURISDICTION OVER  
CERTAIN FIRST SALES

Section 201 would amend NGPA section 121 to provide for the ultimate elimination of all price controls on first sales

of natural gas. New subsection (a) would establish the general rule, under which natural gas sold under contracts executed or amended after the enactment of this Bill would be free from any NGPA price controls. This provision would permit natural gas prices to be established immediately in accordance with market forces and not the existing artificial price ceilings. Subsection (b) would establish a price cap for high-cost section 107(c)(1)-(4) gas sold under contracts in effect on the date of enactment of this Bill. The cap would be the higher of the contract price in effect on the date of enactment of this Bill or the gas cap price (see section 301). The cap would be effective from the date of enactment through December 31, 1985. However, the cap would be removed immediately from any gas which qualified for free market prices under subsection (a). Subsection (c) would remove price controls from section 102 gas, certain section 103 gas, and certain intrastate natural gas on January 1, 1985, as currently scheduled under the NGPA. However, during 1985, this gas could not exceed the gas cap price, unless the gas is sold under a contract covered by subsection (a). Subsection (d) would remove price controls on January 1, 1986, from all first sales of natural gas not previously decontrolled and thus end the Federal government's involvement in establishing wellhead price for natural gas.

Section 202 would eliminate the Commission's jurisdiction under the Natural Gas Act (NGA) to regulate non-price aspects



(such as certification and abandonment) of first sales of natural gas. NGPA section 601(a)(1) currently exempts from such jurisdiction first sales of natural gas that was not dedicated to interstate commerce prior to the enactment of the NGPA or that was described in certain sections of the NGPA (such as high-cost gas in section 107). Section 202 would amend NGPA section 601(a)(1)(B) to eliminate the Commission's NGA jurisdiction over any first sale of natural gas after 1984. NGPA section 601(a)(1)(B) also would be amended to provide for the immediate elimination of Commission jurisdiction over any gas exempted from price controls by reason of the post-enactment execution or amendment of a contract, and thus make the first sale of such gas free from both price and non-price regulation. In addition, any gas that previously had been sold under a contract that lapsed, expired, terminated by its own terms, or terminated because of the market-out provision of new NGPA section 316 after the enactment of the Bill would be exempted from the Commission's NGA jurisdiction. This provision would allow the fullest operation of the market by permitting the gas to be sold to any purchaser and not just the purchaser under the terminated contract.

Section 203 would repeal those sections of the NGPA that would have allowed the President or the Congress to reimpose price controls.

TITLE III -- TRANSITIONAL PRICE  
AND CONTRACT PROVISIONS

Section 301 would add a new section 111 to the NGPA that would provide a transitional pricing mechanism for natural gas currently subject to price controls. Section 111 would establish a new limit, or price cap, for all currently price controlled natural gas, except section 107 gas. This price cap would be the lesser of the maximum lawful price under any other section of the NGPA and the "gas cap price", which would be the average price of natural gas under recent new or amended contracts which could reflect market prices because of new NGPA section 121(a). Until the gas cap price is computed and published, the NGPA prices would apply. Section 107(c)(5) natural gas, including "tight sands" and other types of gas, would be capped at the applicable maximum lawful price under the NGPA for such gas in the month this Bill is enacted. However, the Commission would retain its current authority under section 107(b) to lower the incentive price that such gas currently receives and, if it does so, the new, lower price would be applicable. The price limits established by section 301 would terminate on January 1, 1986, and could be terminated earlier if a producer and purchaser agree to a new or renegotiated contract. (See discussion of section 201 for treatment of section 102, certain section 103, and certain intrastate gas during 1985.)

The gas cap price would reflect the current market price for natural gas and thus would eliminate distortions under the NGPA by which maximum lawful prices act as "price floors" preventing gas prices from responding to downward market pressures. In order to reflect current market conditions, the gas cap price would be a volume-weighted average of prices paid during the first three months of deliveries under any contract that had been executed or renegotiated since the date of enactment of this Bill. This average would be based on the prices estimated to be paid for gas estimated to be delivered under all such contracts during the second, third, and fourth months before the month for which the gas cap price is published. The estimated prices and volumes would be required to be filed with the Commission within five days of the post-enactment execution or amendment of a contract. Beginning with the fourth month following the enactment of this Bill, the Commission would be required to calculate the gas cap price for each month through December 1984. The Commission would publish the gas cap price for each month at least five days before the beginning of that month.

The gas cap price would be calculated as follows. If this Bill is enacted on March 15, 1983, July 1983 would be the first month for which a gas cap price would be published. The July gas cap price would be the average of the estimated prices paid for estimated deliveries from March 15 through

May 31, 1983. The gas included in the average would be all gas estimated to be delivered during the first three months of operation of a contract whose execution or amendment removed the gas from price controls. The average would be weighted to reflect the various volumes of gas at different prices. The August gas cap price would be the average price for certain gas estimated to be delivered in April, May, and June, and so forth. The effect of dropping March and adding June would be to make the gas cap price a rolling average that reflects the most recent market prices.

Section 302 would repeal NGPA section 315 and substitute a new section 315 entitled "Imposition of Take-or-Pay Limits" giving purchasers the right to refuse volumes in excess of 70 percent of available deliverability from wells included under a first sale contract.

Currently, section 315(a) provides that the Commission can specify the minimum duration of certain contracts. Section 315(b) provides purchasers with a right of first refusal in certain circumstances. Section 315(c) permits the Commission to require the filing of contracts for the first sale of natural gas. The repeal of the existing NGPA section 315, along with the elimination of the Commission's NGA jurisdiction over first sales (see section 202), would remove all non-price regulation of first sales of natural gas.

New section 315 would free purchasers to respond to market signals and reject deliveries of high priced gas that was not marketable. New section 315(a) would give purchasers subject to take-or-pay requirements under contracts not amended after the date of enactment a right to refuse delivery of volumes in excess of 70% of available deliverability from those wells included under the contract. Purchasers that exercised this right would also be relieved of their contractual obligation to pay for volumes not taken under this provision. This right could be exercised with respect to deliveries made from the date of enactment through December 31, 1985. New section 315(b) would require a purchaser electing to refuse deliveries to give notice to the seller at least 30 days prior to the date of the delivery being reduced. New section 315(c) would enable a seller that has been notified that its purchaser has elected to refuse delivery of certain volumes to protect its ongoing financial requirements by allowing the producer to terminate the contract with respect to the volumes refused. If a producer terminated a contract in this manner, the refusing purchaser would be subject, however, to certain transportation obligations described in new section 316(d). New section 315(d) would allow the Commission to determine, by rule or order, that the election to refuse delivery under this section shall not apply where production of the volume subject to a take-or-pay requirement is necessary to prevent drainage. New section 315(e) exempts casinghead natural gas from this section. Section 315(f) would treat contracts

covering two or more pricing categories of natural gas as separate contracts for each category.

Section 303 would add a new section 316 to the NGPA, entitled "Market-Out Provision", that would allow either party to a contract for the first sale of natural gas to terminate the contract. Any termination under this section could not go into effect before January 1, 1985 or after December 31, 1985.

Section 316(a) would permit both the purchaser and seller under a first sale contract in effect on the date of enactment and not amended thereafter to terminate the contract as follows. The party terminating the contract would be required to give notice to the other party at least 45 days in advance of the termination of the contract. This notice could not be given before November 16, 1984 or after November 15, 1985. The party terminating could not materially breach the contract prior to the end of the 45 day notice period and would be required to release the other party from all future obligations under the terminated contract. Section 316(b) would provide that, for purposes of this section, a reduction of a take-or-pay obligation under new section 315 would not be considered an amendment of the contract. This provision would make clear that a pipeline did not have to choose between reducing its take-or-pay obligation immediately or waiting until 1985 to terminate the entire contract. Section 316(c) would require

a party that had received a good or service under the contract prior to termination under this section to make payment for that good or service, and also would require a party that received payment for a good or service that was not provided before the effective date of termination to make restitution of the payment, in cash or in kind, in accordance with the contract. This provision would ensure that parties to a terminated contract resolve on an equitable basis any questions concerning advance payments, prepayments or other matters. It is intended that any payments returned to a pipeline under this provision would be flowed through to the pipeline's customers to the extent that the pipeline's rates previously had reflected the payments. Section 316(d) would require a terminating pipeline to transport a volume of natural gas not to exceed, on an annual basis, the largest volume delivered under the contract during any twelve consecutive months in the thirty-six months immediately prior to termination. This provision would permit a producer to seek another buyer for the gas sold under the terminated contract even if the former purchaser controlled all the transportation facilities servicing the producer. Upon application by the affected pipeline and after hearing, the Commission or State agency with jurisdiction over that pipeline could limit by order the transportation obligation if it determined that full compliance would require the pipeline to construct additional facilities or would impair the pipeline's ability to render adequate service to existing customers.

Section 304 would add a new section 318 to the NGPA entitled "Effect of Gas Cap Price," that would define the effect of the gas cap price on certain contract clauses. New section 318(a) would provide that no price escalator clause could operate to establish a price for natural gas subject to NGPA Title I (other than section 107 gas) higher than the gas cap price. New section 318(b) would provide that, for purposes of any area rate clause, the gas cap price is a Federally established rate or price.

TITLE IV -- REMOVAL OF CERTAIN IMPEDIMENTS TO  
INTRASTATE MOVEMENTS OF GAS

Section 401 would facilitate transactions between the interstate and intrastate markets without subjecting those transactions to certification procedures under section 7 of the Natural Gas Act (NGA), and without requiring intrastate companies to become jurisdictional "natural gas companies" under the NGA. Current NGPA section 311(a) permits the Commission to authorize transportation by interstate pipelines on behalf of any intrastate pipeline or local distribution company, and by an intrastate pipeline on behalf of any interstate pipeline or local distribution company served by an interstate pipeline. Current NGPA section 311(b) permits the Commission to authorize any intrastate pipeline to sell gas to any interstate pipeline or local distribution company. Current NGPA section 312 permits the Commission to authorize



any intrastate pipeline to assign surplus gas to an interstate pipeline or local distribution company. These provisions were designed to permit the then existing "bubble" of gas in intrastate markets to flow into interstate markets that were facing gas shortages. Sections 401(a), (b), and (c) would amend these NGPA provisions to allow natural gas to flow both ways to correct imbalances in any market. Section 401(a) would expand NGPA section 311(a) to permit the Commission to authorize any pipeline or local distribution company to transport gas on behalf of any person. The use of the phrase "any person" is not intended to reflect any view concerning the persons on whose behalf gas currently can be transported under section 311(a). Section 401(b) would expand NGPA section 311(b) to permit the Commission to authorize any pipeline or local distribution company to sell gas to any other pipeline or local distribution company. Section 401(c) would expand section 312 to permit the Commission to authorize any pipeline or local distribution company to assign surplus gas to any other pipeline or local distribution company. In addition, the definition of "surplus gas" would be broadened.

Section 402(a) would expand NGPA section 314. Currently, NGPA section 314 voids anticommingling clauses with respect to certain first sales. Section 402(a) would expand section 314 to void anticommingling and similar clauses in contracts for the resale and transportation of natural gas that is not

deemed to be in interstate commerce because of NGPA section 601(d) (see section 402(b)). This change is designed to facilitate transactions between the interstate and intrastate markets.

Section 402(b) would add a new subsection (d) to NGPA section 601 which would establish the principle that, in most instances, intrastate pipelines should not be subject to the Commission's jurisdiction just because the intrastate pipeline acquires gas from another State as long as there is no regulatory gap concerning the sale and transportation of such gas. New NGPA section 601(d)(1) would provide that purchasers of gas in certain "covered transactions" would not become subject to the Commission's jurisdiction because of such purchases. New section 601(d)(2) would provide that transactions downstream from such covered transactions would not, solely on that basis, be considered to be in interstate commerce, and that intrastate recipients of this natural gas would not thereby be considered to be "natural gas companies" under the NGA. Covered transactions would be defined as the first sale of natural gas not subject to the jurisdiction of the Commission by reason of section 601(a)(1)(A) or (B), the first sale of gas produced on the outer Continental Shelf, a sale or assignment under sections 302(a), 311(b) or 312(a), a first sale under section 317 (the new "Contract Carrier" provision), and a sale for resale by a Hinshaw pipeline. This section would only apply to natural gas that remained

in the State in which the purchaser in the covered transaction received the gas, except if gas is transported outside of that State in connection with a transaction under sections 302(a), 311(a), 311(b) or 312.

Section 402(b) also would add a new subsection (e) to NGPA section 601, entitled "Nondiscrimination Provision." New subsection (e) would prohibit the Commission, in exercising its jurisdiction over any gas under either the Natural Gas Act or the NGPA, from discriminating against either intrastate or interstate purchasers.

Section 403 would add a new section 317 to the NGPA providing for "Contract Carrier Authorization." Section 317(a) would provide that, upon application by a producer or a producer's customer, the Commission shall order an interstate pipeline to transport gas on behalf of the producer and purchaser, under such terms and conditions as the Commission determines to be just and reasonable. This section is intended to open the natural gas market to the operation of the laws of supply and demand to the fullest extent possible by allowing producers and users of natural gas to deal directly with one another. There would be limitations on this provision to protect the pipeline and its customers. A pipeline would not be required to construct new facilities. In addition, the Commission could find the transportation would impair service to the pipeline's customers, and thus limit or disallow the

application. Finally, the Commission is given the option to implement this section either by rule or order. Section 317(b) would provide that in consideration for this carriage, the pipeline would receive five cents per million Btu's in addition to the normal transportation rate which the pipeline would receive under the Natural Gas Act for such transportation. The five cents would not be credited and flowed back to the pipeline's customers, but would be reserved for the pipeline's shareholders. Except for the special treatment of the five cents, the revenue from transportation under this provision would be treated in the same fashion as revenue from transportation under the Natural Gas Act.

TITLE V -- REPEAL OF CERTAIN RESTRICTIONS ON  
NATURAL GAS AND PETROLEUM USE AND PRICING

Sections 501 and 502 would repeal several sections of the Powerplant and Industrial Fuel Use Act of 1978 (FUA).

The bill would repeal (1) the prohibitions on the use of natural gas and petroleum as a primary energy source in new electric powerplants and new major fuel-burning installations, (2) the prohibition on the construction of new powerplants without alternate fuel capability, (3) the discretionary authority of the Secretary of Energy to prohibit nonboiler installations from using natural gas and petroleum as a primary energy source, and (4) all corresponding exemption provisions.

The bill would repeal section 302 of FUA which authorizes the Secretary of Energy to prohibit the use of natural gas or petroleum as a primary energy source where coal or alternate fuel capability exists in existing major fuel-burning installations.

The Secretary of Energy's authority under section 401 of FUA to prohibit the use of natural gas as a primary energy source in certain boilers would be repealed.

The bill would repeal section 402 of FUA which prohibits certain installations of new outdoor lighting fixtures that use natural gas and certain uses of natural gas therein.

The bill would repeal section 405 of FUA which authorizes the Secretary of Energy to restrict, by rule, increases in the use of petroleum as a primary energy source in existing powerplants that used coal or another alternate fuel in 1977.

The bill would repeal subsections 103(a)(16), (a)(18), (a)(19) and (a)(29) of the Powerplant and Industrial Fuel Use Act of 1978, which provide certain definitions for general reference that are no longer necessary due to the proposed repeal of many statutory provisions.

Section 503 would repeal title II of the NGPA, which provides for an incremental pricing system whereby low priority users of natural gas pay a larger share of the first sale acquisition costs for natural gas, and thus would end this

regulatory system. Acquisition costs incurred prior to the enactment of this bill would be passed through to users on the basis of the existing Commission regulations for incremental pricing. Any acquisition costs incurred after the enactment of this bill would be dealt with without regard to incremental pricing requirements.