Approved January 23, 1990
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Representative Jeff Freeman at
Chairperson

3:30 ~~xxx~~/p.m. on January 10, 1990 in room 526-S of the Capitol.

All members were present except:

Committee staff present:
Raney Gilliland, Principal Analyst, Legislative Research
Pat Mah, Legislative Research
Mary Torrence, Revisor of Statutes' Office
Maggie French, Committee Secretary

Conferees appearing before the committee:
Robert T. Stephan, Attorney General, State of Kansas
Rick Kready, Special Assistant for Governmental Affairs, Office of the Governor, State of Kansas
Emily Wellman, Energy Programs Supervisor, Kansas Corporation Commission
William G. Riggins, Consumer Counsel, Citizens' Utility Ratepayers Board (CURB)

Vice-Chairman Jeff Freeman called the meeting to order, welcoming new committee member, Representative Eloise Lynch, replacing Representative John Sutter, and staff.

Vice-Chairman Freeman stated that the volume of inquiries received prompted this oversight hearing on problems associated with the recent rapid escalation of propane prices in Kansas, and that the purpose of the hearing is to insure that everything that can be done is being done by the State of Kansas to make sure the services on which so many people rely are fair.

Robert T. Stephan, Attorney General, State of Kansas, was the first conferee introduced by Vice-Chairman Freeman. Attorney General Stephan announced his office has received more than 200 telephone calls in regard to the increase in propane prices. He stated hearings have recently been held before a Congressional Committee in Washington, D.C.; but, from the perspective of the State of Kansas, there is probably very little that can be done. He said he had no reason to believe there was collusion; however, the states do not have the resources to investigate. Attorney General Stephan indicated the scope of the problem is national; but, it is possible there may be some legislative measure which can be taken such as a resolution to Congress expressing the concern in our state and requesting hearings and action be taken. Discussion followed.

Rick Kready, Special Assistant for Governmental Affairs, Office of the Governor, State of Kansas, was introduced by Vice-Chairman Freeman. He distributed copies of two news releases issued December 22, 1989 and January 5, 1990 relating to the propane gas study. He stated that the governor recognized in the December 22 release we were hearing a great deal about the increase in propane prices and decided that someone needed to take more than a superficial look at the situation. The Kansas Corporation Commission was requested to do an initial study. The National Governors' Association has been requested to put together a study to see what can be done on a federal level and time has been reserved in the Governor's schedule the week of January 15 to meet with distributors and suppliers of LP gas to discuss the problems in distribution and supply. (Attachments 1 and 2.)

Vice-Chairman Freeman introduced Emily Wellman, Energy Programs Supervisor, Kansas Corporation Commission, who stated that Governor Hayden's office had requested a report prepared as an initial study of the propane supply in Kansas. She distributed copies of the report to the committee and presented introductory remarks. Lengthy discussion followed with questions from the committee. (Attachment 3).

William G. Riggins, Consumer Counsel, Citizens' Utility Ratepayers Board (CURB) was introduced by Vice-Chairman Freeman. Mr. Riggins stated CURB represents the interests of residential and small commercial ratepayers in utility matters and that he has received many telephone calls from consumers and legislators relating to the rise in propane prices. A copy of his testimony is attached. (Attachment 4.)

Raney Gilliland, Principal Analyst, Legislative Research, was requested by Vice-Chairman Freeman to give a staff overview. He discussed the memorandum he prepared January 10, 1990 on recent changes in retail propane prices. (Attachment 5.) He also discussed a 1974 bill relating to the regulation of LP gas which passed the Senate, but was killed by the House. (Attachment 6.)

The meeting was adjourned at 4:52 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held at 3:30 p.m. on January 11, 1990 in Room 526-S.

Date: 1-10-1

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
DAN STEVENS	TEXACO	P.O. Box 1650 Tulsa OK	918 560-6035
[illegible]	[illegible]	[illegible]	
Tom Whitaker	Ks Motor Carriers Assn	Topeka	
Ron Reinert	Self	Dodge City	316 227-2654
Robert Cushman	Kansas Cattle Assn	Olathe	
Joe Konrade	KCC		4355
Judy McConnell	KCC		3326
[illegible]	Governor's office	Lawrence	843-3310
[illegible]	KCC		
[illegible]	KCC		3361
Woody Woodman	KCPL	KC Mo	816-556-2155
TREVA POTTER	PEOPLES NAT GAS	TOPEKA	235-5996
Emily Williams	KCC	Topeka	296-2754
Bill Fuller	Kansas Farm Bureau	Manhattan	587-6110
Charles Nicolay	KOMA	Topeka	288-1916
Rebecca Pico	Amoco	Topeka	273-4170

NEWS

MIKE HAYDEN

GOVERNOR OF KANSAS

Kathy Peterson, Press Secretary **The Statehouse, Topeka 66612-1590** **(913) 296-4034**

For Immediate Release:
Friday, December 22, 1989

GOVERNOR HAYDEN CALLS FOR STUDY OF LP GAS AVAILABILITY

TOPEKA--Governor Mike Hayden called today for the Kansas Corporation Commission (KCC) to make an immediate assessment of the current liquid petroleum (propane) gas situation in Kansas.

Governor Hayden pointed to significant wholesale price increases that have affected the cost of delivered LP gas since Thanksgiving.

"I want the KCC to evaluate this situation," Governor Hayden said. "We need some of our energy experts to look deeper into this matter to find out if and why there is a shortage."

While some people believe a shortage of supply and extreme demand is causing the market to increase the price, Governor Hayden cautioned that the problem may be exacerbated by some panic buying.

Governor Hayden said retailers had reported difficulty scheduling delivery for people who were nearing the end of their supply because some people were purchasing LP gas when they had enough supply on hand.

H ENERGY AND NR
1-10-90
ATTACHMENT 1

"In Kansas, a producer state, this appears to be a delivery problem, not a supply problem," he said. "But we need to understand the supply and delivery dynamics. If distributors are having problems at the wholesale level, perhaps we can help them over some hurdles.

"If the problem is in production, perhaps we can get the processors in touch with natural gas producers throughout this state who want to sell more gas." Propane is extracted from natural gas.

Scott Stockwell, KCC Director of Utilities, said an initial study can be completed within two weeks.

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NEWS

MIKE HAYDEN

GOVERNOR OF KANSAS

Kathy Peterson, Press Secretary **The Statehouse, Topeka 66612-1590** **(913) 296-4034**

For Immediate Release:
Friday, January 5, 1989

GOVERNOR HAYDEN'S STATEMENT
PROPANE GAS STUDY

"The report completed by the staff of the Kansas Corporation Commission provides an excellent analysis of the propane gas price problems in Kansas. This study provides the first thorough investigation of the increases in the cost of propane gas in Kansas in the past couple of months.

"As a result of this study, I am prepared to make two specific recommendations. First, I am going to request that the leaders of the propane industry in Kansas meet with me within the next couple of weeks to discuss some of the problems detailed in this report and to begin the work on finding solutions to the skyrocketing costs of propane gas in Kansas. I am most hopeful that this meeting will produce some positive results for propane users in Kansas.

"Second, I am going to request from Governor Terry Branstad of Iowa, Chairman of the National Governor's Association, that the NGA conduct a study of this issue. It is important to note that this is not a problem unique to Kansas, and the best solutions may come about as the result of an interstate effort.

"I commend the staff of the KCC for the excellent job it did in preparing this report in a timely manner." 3847P

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1-10-90
ATTACHMENT 2

Report to the Governor: An Initial Study of the Propane Supply in Kansas

Submitted by the staff of the
Kansas Corporation Commission

January 5, 1990

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1-10-90
Attach 3

Initial Propane Study
January 5, 1990

STUDY SCOPE

The scope of this study has been to collect information regarding the supply of propane available to Kansas customers.

In the interest of making information available to the public as soon as possible, it was determined that an initial study should be released within two weeks of Governor Hayden's December 22, 1989, request. The process of information gathering will continue throughout the winter heating season.

Initial Propane Study
January 5, 1990

EXECUTIVE SUMMARY

Between Thanksgiving and Christmas of 1989, the price of propane to retailers and to ultimate consumers increased dramatically. For the past three years, Kansas propane consumers paid an average $0.45 to $0.50 per gallon for residential propane. As of early January, 1990, customers have reported prices ranging from $0.79 to $1.28 per gallon.

Propane is processed, transported and sold on an interstate and even international market. Like other fungible energy resources, such as gasoline and heating oil, propane is traded on the open market.

Kansas is the nation's third largest propane producer state (over 1 billion gallons per year), producing approximately 10 percent of the United States' annual production. Kansas is the 14th largest consumer state, with annual sales of about 320 million gallons. Kansas producers export principally through a network of pipelines extending into the Upper Midwest, including Illinois, Iowa, Missouri, Wisconsin, Minnesota, Nebraska, and South Dakota (respectively, 4th, 7th, 9th, 12th, 18th, and 28th largest consumer states). In the Midwest market, other major producers include Texas, Oklahoma, and Canada.

Price Trends During the Past 6 years

The past three winters (1986, 1987, & 1988) have been mild and the price of propane has reflected the reduced demand for heating fuel. During 1984 and 1985, wholesale prices were $0.40 to $0.50 per gallon. From 1986 to 1989, the price of propane, along with the prices of other petroleum products, fell, averaging $0.20 to $0.25 per gallon. During a winter with normal or below normal temperatures, consumer demand can be expected to put upward pressure on prices.

Pricing of Propane

The price of propane is a function of weather, industrial consumption (non-weather related), transportation capacity, production, inventory and the relative price and availability of substitutes. As consumers are painfully aware, unusually severe weather will adversely affect the price. Industrial and commercial consumption (non-weather related) has in some instances been curtailed by allocations and, being more sensitive to price than residential demand, can be expected to fall during this period of high prices. Propane production is at or near maximum levels; transportation constraints continue to push prices above normal levels. Inventories, on the wholesale, retail, and customer level entered the 1989-90 heating system substantially below levels that would have been appropriate for normal heating season demands. Propane's principal substitute, No. 2 Heating Oil, has experienced increases similar to propane and continues to be in short supply, placing further upward pressure on prices.

Prices in Kansas are affected by demand not only in Kansas but across the country, particularly the Upper Midwest Region. The record-breaking cold in Kansas was accompanied by record cold in every state served by Kansas producers.

The price increases that occurred in December were not anticipated by the industry, were not predicted in financial or petroleum industry publications or reflected in higher futures prices. These price increases reflect an industry that was not adequately prepared for the 1989-90 winter heating season.

Supply Problems During December 1989

Industry sources have cited several incidents that have affected supply during the recent period of peak demand.

The Conway storage field, west of McPherson, Kansas, is one of the two largest LP-Gas underground storage fields in the nation. In late 1989, the operators have had difficulty procuring brine (i.e., salt water solution obtained from oil production) which is used to displace the propane stored underground and bring it to the surface. Mid-Continent propane inventories were substantially lower in October 1989 as compared to 1988.

Several refineries in the Southeast U.S. experienced problems during the cold weather and production of propane from oil was affected. The explosion of the Exxon refinery in Baton Rouge, Louisiana, caused that refinery to lose production completely for several days and curtailed production over a longer period. The Baton Rouge refinery produces propane for the major pipeline serving the Southeast.

The cold weather in the Southeast also caused freezing rain, making some truck transport of needed propane impossible for several days during the most severe weather.

Rail cars for propane transportation were apparently even more difficult than usual to secure. An industry source indicated that EPA emission regulations have reduced the amount of butane that can be added to gasoline, creating an oversupply of butane. Idle rail cars were used to store the butane, making those cars unavailable when they were critically needed for propane transport.

Supply from Canada, an important source of propane for the Upper Midwest, is down from last year, in part because Canada needed the propane for domestic consumption.

Overseas imports by tanker deliveries were reported to have been diverted to Europe because of an early cold spell and a major delivery was reportedly delayed by rough seas.

It is not possible to quantify the impact that these separate incidents might have had upon supply.

Outlook

Representatives of the propane industry have indicated that nationwide (excluding the Conway field) there is not a shortage of propane in storage fields. Transporting the propane to market, though, is a problem. Within Kansas, propane moves from production to retailers via pipelines; pipelines that are running near or at capacity, 24 hours a day. These pipelines cannot move as much propane as is needed during peak demand periods because of competing

requirements for transportation of other equally essential hydrocarbon products, such as diesel fuel, gasoline, ethane and butane. Peak needs can be met only by having storage facilities at retail suppliers containing sufficient inventory to meet peak demand. Retail suppliers appear to have entered the heating season with inadequate inventories. A break in the weather is needed to allow the transportation system to eliminate backlogs; however, it is uncertain that inventories can be built up to meet demand for another extended cold spell. Obtaining information on current propane inventories throughout the distribution network is difficult.

The wholesale prices of propane is based upon national demand. The price in Kansas is affected by demand in other states, particularly the Upper Midwest Region. Even if the transportation system in Kansas can catch up with local demand, wholesale prices will begin to fall only after the national or regional market for propane has stabilized.

In the early days of January, 1990, wholesale prices began to fall significantly in Mont Belvieu, Texas, an underground storage field that serves the South and Northeast. Prices in Kansas have not shown as substantial a decrease, reflecting a tighter supply in the Upper Midwest Region. Wholesale price reported at Conway, Kansas were slightly down on January 5, 1990. Producers were offering up to a $0.20 price break to those retailers that agreed to schedule delivery 4 or more days into the future. It is not possible to determine whether the inventory picture is improving.

Weather will remain the critical determinant of the price of propane. The 30 day forecast provided by the National Weather Service predict that January temperatures in Kansas should be near normal, which would be significantly colder than last January. The outlook for normal temperatures includes the Upper Midwest. Below normal temperatures are forecast for the Northeast and the South.

The 90 day outlook gives reason to be cautious. The forecast indicates that Kansas may experience below normal temperatures in the northeast to near normal temperatures in the west. Unfortunately, the forecast is for below normal temperatures for all of the Upper Midwest, Midwest, and East.

Legal Issues

The scope of this report has been to collect information regarding the supply of propane available to Kansas customers. The report draws no conclusion and does not preclude the validity of the several legal issues (e.g., fair trade) that have been raised by various parties. Agencies having the appropriate jurisdiction and responsibilities can better address those issues.

INTRODUCTION

Between Thanksgiving and Christmas, 1989, the price of propane to retailers and to ultimate consumers across the United States increased to new levels. For the past three years, Kansas propane consumers paid an average of $0.45 to $0.50 per gallon for residential consumer grade propane. At this writing, customers have reported prices ranging from $0.79 to $1.28. Some dealers' wholesale costs have risen to up to $1.12 per gallon.

Propane is processed, transported and sold on an interstate, and even an international basis. It is not regulated by state public utility commissions, as are electricity and natural gas. Like other fungible energy resources, such as motor gasoline and heating oil, propane is traded on the openmarket.

Federal regulations govern production and transport of propane. In Kansas, state laws govern transportation safety, intrastate transportation rates and underground storage.

The 1980 U.S. Census reported that 84,193 (or 10 percent) of Kansas' 872,239 households used bottled, tank or LP gas as the main house heating fuel.[1]

In 1988, 1,084,737,000 gallons of consumer grade propane were produced in Kansas. Total U.S. production that year was 14,328,156,000 gallons. [2]

The following gas processing plants are located in Kansas:

Enron Gas Processing Co., Ellsworth County
Amoco Production Co., Grant County
KN Energy, Scott County
National Helium Corp, Seward County
Texaco Producing Inc., Ford County
Anadarko Petroleum Corp., Seward County

In 1988, 323,433,000 gallons of propane were sold for end use in Kansas. Sales were among the following sectors:

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[1]1980 Census - Kansas, General Housing Characteristics, Detailed Housing Characteristics, Table 62

[2]"1988 LP-Gas Market Facts", National Propane Gas Association

Residential and Commercial	112,599,000 gallons
Chemical and Industrial	108,693,000 "
Farm	53,645,000 "
Engine Fuel	19,925,000 "
Other, including refinery processes	28,531,000 "[3]

In summer, the peak use of propane is for agricultural transportation and grain drying. In winter, the peak use is for residential (mostly rural) heating.

Inventories

On October 31, 1989, national inventories lagged behind 1988 by 25% at about 60 million barrels (2,520 million gallons).[4]

In 1987, the total U.S. bulk propane storage capacity was 9,112,026,000 gallons, including 1,854,636,000 in Kansas. ("1988 LP-Gas Market Facts") Appendix A shows inventory levels at the Mid-Continent facility for each month from January 1988 through November 1989.

Also, at the start of past winters, propane had been delivered from Canada through the Cochin pipeline and had been imported across the Atlantic. Canadian gas was not stocked in 1989 and the early abnormal cold in Europe resulted in lower imports to the US.

Among the reasons for lower inventory levels is the fact that the previous three mild winters had left wholesalers, dealers and customers with overstocked inventories.

It has been acknowledged by the industry that this winter's lack of on-hand inventory, at all levels, played a significant role in producing the current demand-driven price and distribution bottleneck.

Weather

Following its mid-December prediction that this winter would be the coldest in two years, ACCU-Weather Inc. predicted that within a few days, intense cold would sweep across the U.S. resulting in freezing weather as far south as the citrus belt. There, temperatures were expected to hit 18 to 28 degrees by December 24. Temperatures for the country in general were expected to be as much as 12 degrees below normal through the rest of the month.

The National Weather Service reported that, on December 22, new record cold temperatures were established in 125 cities. Examples included minus 13 degrees at Beckley, West Virginia; minus 5 at Calico Rock, Arkansas; 17 at Del Rio, Texas; minus 10 at Paducah, Kentucky; and minus 22 in Topeka, Kansas. Across Kansas, high temperatures ranged from

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[3] "1988 LP-Gas Market Facts," National Propane Gas Association, pages 10 and 12.

[4] "Weekly Propane Newsletter," January 2, 1990, Vol. 20, Number 1, page 7

minus 9 to 6. Low temperatures ranged from minus 27 to minus 13. (The Topeka Capital-Journal, December 23, 1989)

Pricing

Financial reports predicted a forty percent rise in the demand for heating resources across the nation. Unprecedented and sustained cold temperatures have caused the increased nationwide demand for propane. This, coupled with reduced stocks all along the propane distribution network resulted in the price spike illustrated in Appendix B which shows the wholesale price history of propane over the past six years. Prices remained relatively stable until early December when spot prices (which do not include transportation costs) began a dramatic rise. Appendices C-1 and C-2 show spot and futures price activity for propane from November through January 4. These prices reflect those quoted at the Mont Belvieu, Texas, storage facility.

The spot prices from the largest storage facility in Kansas, known as Group 140, near Conway, are not routinely reported in the financial press. Spot prices averaged $0.21 to $0.22 cents per gallon through mid-November. Appendix D illustrates recent Conway spot prices.

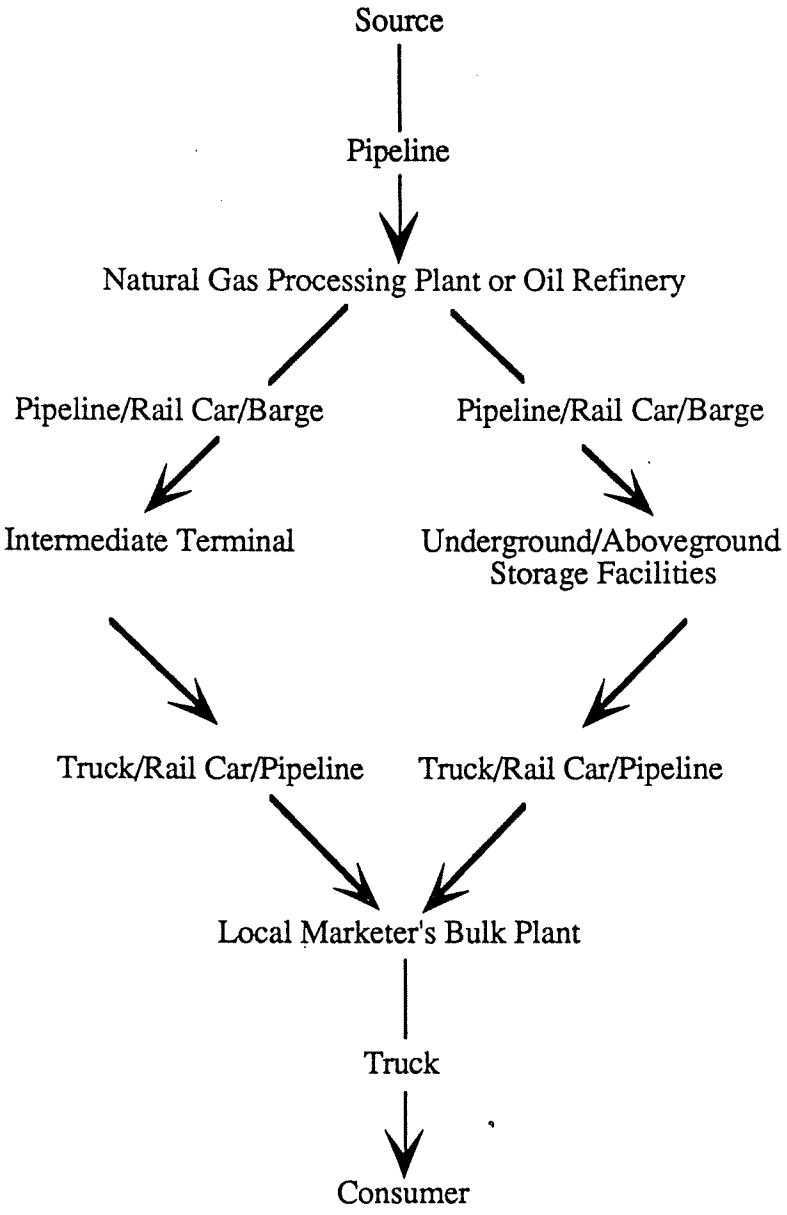
A review of national financial and petroleum publications reveals no portend of the imminent price rise. Indeed, even as prices began to escalate, futures prices lagged behind spot prices, almost as if futures buyers couldn't believe what was happening on the spot market.

PROPANE TRANSPORTATION SYSTEM

General Discussion

Long distance movement of LP-gas is primarily by pipelines, with barge transport possible in some locations. Local distribution and customer deliveries, on the other hand, almost always require shipment by tank truck or rail car.

Flow Diagram



3-9

Propane Sources

a) Domestic

Nearly 90 percent of propane utilized in the U.S. market is domestically produced from oil and gas wells. Of this amount, approximately two-thirds is extracted from natural gas wellhead production and one-third is extracted during the crude oil refining process.

Gathering systems consisting of thousands of miles of pipelines transport the natural gas or oil to the locations where the propane can be extracted. Principal propane suppliers include: Amoco, ARCO, Conoco, Consolidated Coop, Consolidated Gas, Econogas, Enron, Exxon, Ferrell Petroleum, Liquid Energy, Martin Gas Sales, Oryx Energy Co., Oxy NGL Inc., Petro Source, Phillips 66, PTO, Shell, Tenneco, Texaco and Warren.

b) International

The remaining 10 percent of propane utilized in the U.S. originates from other countries, including Alberta, Canada and the North Sea production area. Canadian supplies arrive in the U.S. by way of both rail car and the Cochin Pipeline which extends from Alberta through the states of North Dakota, Minnesota, Iowa, Illinois, Indiana and Michigan. Tankers of LPG can be accepted at a number of import terminals along the East Coast from New Hampshire to Virginia and along the Gulf of Mexico area, primarily from New Orleans to Corpus Christi.

Transportation System - General

a) Interstate Pipeline System

Upon completion of the extraction process, propane is either introduced into an extensive interstate pipeline system to distribute it throughout the U.S. or is transported by rail car to specific locations. The major interstate propane pipeline systems include the following companies: Dixie, Texas Eastern, Mapco, Hydrocarbon Transport, Inc., Cochin and Kaneb.

This interstate pipeline system is shown on Appendices E-1 and E-2. There are approximately 70,000 trunk line miles in this pipeline system.

Additional quantities of propane can be transported to intermediate terminals by the approximately 22,000 rail cars which may be available for propane transport. Rail cars are used to supply distribution terminals that are not served by a pipeline. They can also be used for deliveries to some local marketers and certain large volume customers.

Interstate transportation tariffs are filed with the Federal Energy Regulatory Commission.

b) Intermediate Terminals

Most propane is shipped in two stages:

1) from the natural gas processing plant or refinery to an intermediate terminal; and
2) from there to the local marketer for delivery to the end user.

There are numerous distribution terminals along the pipeline system. These facilities normally have some amount of aboveground or underground storage capability for propane.

c) Local Marketer's Bulk Plant

Bulk storage plants operate similar to the warehouse function for retail outlets. There are over 9,000 bulk plants in the U.S. that contain one or more propane tanks, typically of 18,000 to 30,000 gallons storage capacity.

d) Retail Outlet

There are approximately 25,000 retail propane distributors in the U.S., including the 9,000 bulk plants mentioned above. Kansas has approximately 290 propane dealers.

e) Storage Capacity

On a national level, there are over 140 underground storage facilities with a total capacity of 190 million barrels (one barrel equals 42 gallons) of propane. There are an additional 3.7 million barrels of storage capacity in aboveground facilities. Thus, the total storage capacity is 193.7 million barrels. These storage facilities are distributed between the natural gas processing plants/refinery locations and intermediate terminal locations.

Propane Transportation System in Kansas

Three major interstate pipelines serve Kansas: Kaneb, MAPCO and HTI. These common carrier liquids pipelines carry propane, butane, ethane and isobutane. They are being fully utilized. Draft maps of these pipelines are attached at Appendix F.

Common carrier intrastate transport of propane is regulated by the Kansas Corporation Commission as mandated in K.S.A. 66-1,108 et seq.

Pipeline owners file tariffs that will become effective in 30 days, unless the rates are protested. There is no provision for surcharges for unexpected demand for pipeline transportation. A representative intrastate tariff is $.19 per barrel (or $.0045 cents per gallon) regardless of the distance carried. A list of Kansas intrastate crude oil and petroleum products pipelines is attached.

Motor carriers also file tariffs for KCC approval. Almost 80 percent of the registered LP Gas carriers in Kansas adhere to a group tariff filed by the Kansas Motor Carriers Association. Only one motor carrier, not included in this group, has filed for a surcharge within the past few

months. A representative intrastate tariff is $.25 per barrel (or $.006 per gallon) for delivery from Coffeyville to Hutchinson. A transport truck carries 9,000 gallons of product.

Typically, trucks carrying LP gas, owned and operated for the exclusive use of an LP distributor are classified as "private" carriers, which operate within a twenty-five mile radius and are exempt from KCC jurisdiction. Carriers operating outside of this range are subject to KCC regulation regarding fitness and safety, including a maximum of ten continuous driving hours and a maximum of fifteen hours on duty per day.

A private carrier may receive almost immediate authority to increase its fleet to meet added demand, provided the carrier furnishes certain financial information and proof of insurance. An application for authority to operate as a common carrier, held out to the public for hire, would take up to sixty days for approval.

Railcars carry 30,000 gallons, but there is an insignificant amount of interstate transportation of LP Gas in Kansas. Interstate tariffs are filed with the Interstate Commerce Commission.

Transportation is an integral part of propane supply. During the recent price rise, it has been reported that all transportation systems were completely utilized.

PRICE AND VOLUME ANALYSIS

For most consumers, the price of Propane has been relatively constant in the recent past. As can be seen in the accompanying graph (Appendix B), wholesale Propane prices have stayed within a fairly narrow range of $.18 to $.25 per gallon for most of the last four years. It is only recently that we have seen prices rise to the levels experienced during the winter of 1985. This relative price stability stands in marked contrast to the volatility of Propane's closest competitor, No. 2 Fuel Oil. Over the past five years the price fluctuations in No. 2 Fuel Oil have been roughly double that experienced by Propane.

Though the prices of Propane and No. 2 Fuel Oil have generally moved in the same direction, this relationship has deteriorated somewhat recently. Since September 1988 the price of No. 2 Fuel Oil has tended to increase while propane's wholesale price remained relatively constant. This imbalance has changed with the recent increase in prices and the historic relationship in prices is once again in place.

The price increase in propane that caught so many consumers by surprise was also a surprise to propane traders. As can be seen in Appendix C-1, the propane futures market virtually mirrored the changes taking place in the spot market. In essence, industry insiders were not able to predict the impending price changes until these changes actually took place. Appendix C-2 shows the movements of the December and January futures contracts on a daily basis.

As can be seen in Appendix C-2, the spot price of propane has declined dramatically in the first days of January. Though prices have a long way to go before approaching the $.18 to $.25 range, they have already fallen from a high of $.74 to $.60 as of January 3.

Inventories in the area were lower at the beginning of the season than in the past. Appendix A shows the inventories of propane at the Conway storage facility in 1989 as compared with 1988. Conway, located just west of McPherson, Kansas, is the primary storage facility for the Kansas market and most of the midwest. In October, these inventories were down by approximately 3.7 million barrels. This was a function, primarily, of problems with the injection of brine into the storage facility. As a result, the facility could not be filled to capacity.

Initial Propane Study
January 5, 1990

DEPARTMENT OF ENERGY TASK FORCE

On December 23, 1989, Assistant Secretary for International Affairs and Energy Emergencies, John J. Easton, chaired a meeting at DOE to assess propane and heating oil supply problems, identify bottlenecks and develop possible solutions. Approximately 80 representatives from oil and gas companies, distribution and pipeline companies, and other federal agencies attended. Representatives from the National Governors' Association and state energy offices also attended.

On December 29, 1989, the Department of Energy reported that extended, abnormally cold weather had generated near record demand, drawing down supplies that were already lower than last year's levels. Acute supply problems at all levels of the distribution network in the Northeast and Midwest."

Regarding propane supplies: "Most suppliers are experiencing outages in at least some areas, including all of the Northeast and the upper Midwest...Supplies are being drained faster than they can be replenished, and adequate stocks do not appear to be available at the source (in this case, the Gulf Coast, as well as gas plants in the KS/OK area). Even for those willing to pay any price, December product is reported unavailable on the spot markets.

"Suppliers are beginning to reduce or cut off supplies to "non-essential" customers (resellers and industrial or commercial accounts, as opposed to residential)...Suppliers do not believe that the distribution system will be able to replenish terminal storage quickly enough to offset demand, until the weather breaks long enough for the demand backlog to be filled.

"In summary, it appears that, in the opinion of the industry, the supply system is intact and performing as required, and unusually cold weather has created shortages. Based upon this, no extraordinary measures are planned or seen as feasible, and the resolution of current supply problems will await a change in the weather.

"Prices, already up substantially, will probably continue to rise as long as abnormally cold weather is predicted, but will react rapidly downward with the first prolonged warming trend. ("A Summary Assessment of Heating Fuel Markets", U.S. Department of Energy)

On January 3, 1990, DOE reported that it has been successful in expediting requests for waivers to the Jones Act to allow foreign vessels carrying propane from U.S. ports to be diverted to ports in the northeast. DOE has also begun processing applications for waivers to allow fuel truck drivers to operate for extended hours in order to speed up deliveries to the affected areas.

And, DOE reported that, "Production of heating oil and propane has been at an all time high throughout December. Major pipelines are operating at near maximum capacity, especially propane, which should compensate for inadequate stockpiling by some local distributors. (memorandum from J. Phipps to state energy offices, January 3, 1990.)

DOE has no statutory authority to allocate the distribution of or regulate heating fuel prices.

WEATHER FORECAST

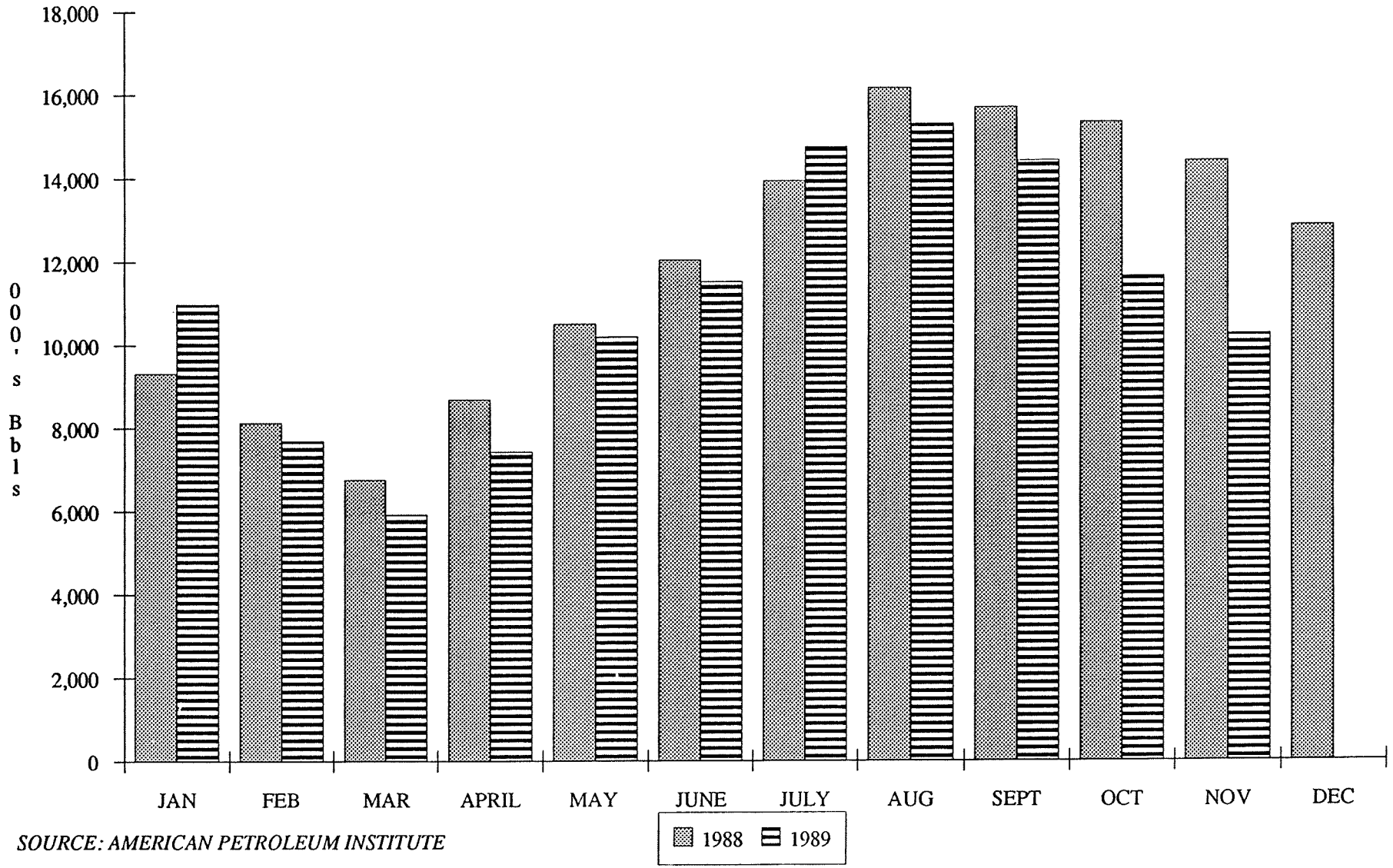
Generally, the National Weather Service forecasts for Kansas are for normal to slightly below normal temperature during the coming three months.

The Service forecasts a 55% chance of above-average temperatures in roughly the northwest quarter of Kansas during January and a 50% chance of below normal temperatures for the rest of the state. This forecast is illustrated in Appendix H-1.

The Service forecasts a 55% chance of below normal temperatures for the eastern half of Kansas and a 50% chance of below normal temperatures for the western half of Kansas during the coming 90 days. This forecast is illustrated in Appendix H-2.

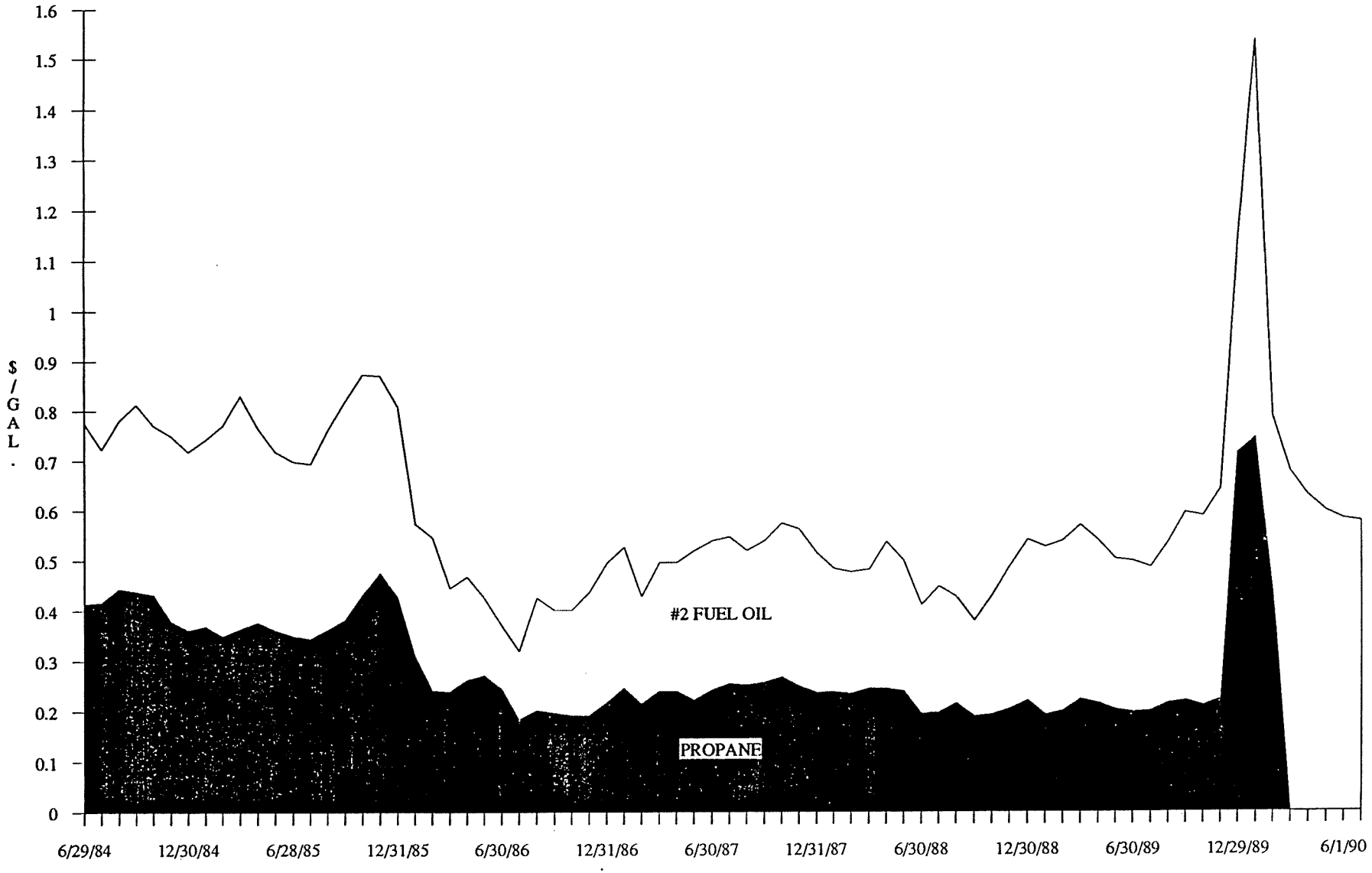
APPENDIX A

MID-CONTINENT PROPANE INVENTORIES 1988 vs. 1989



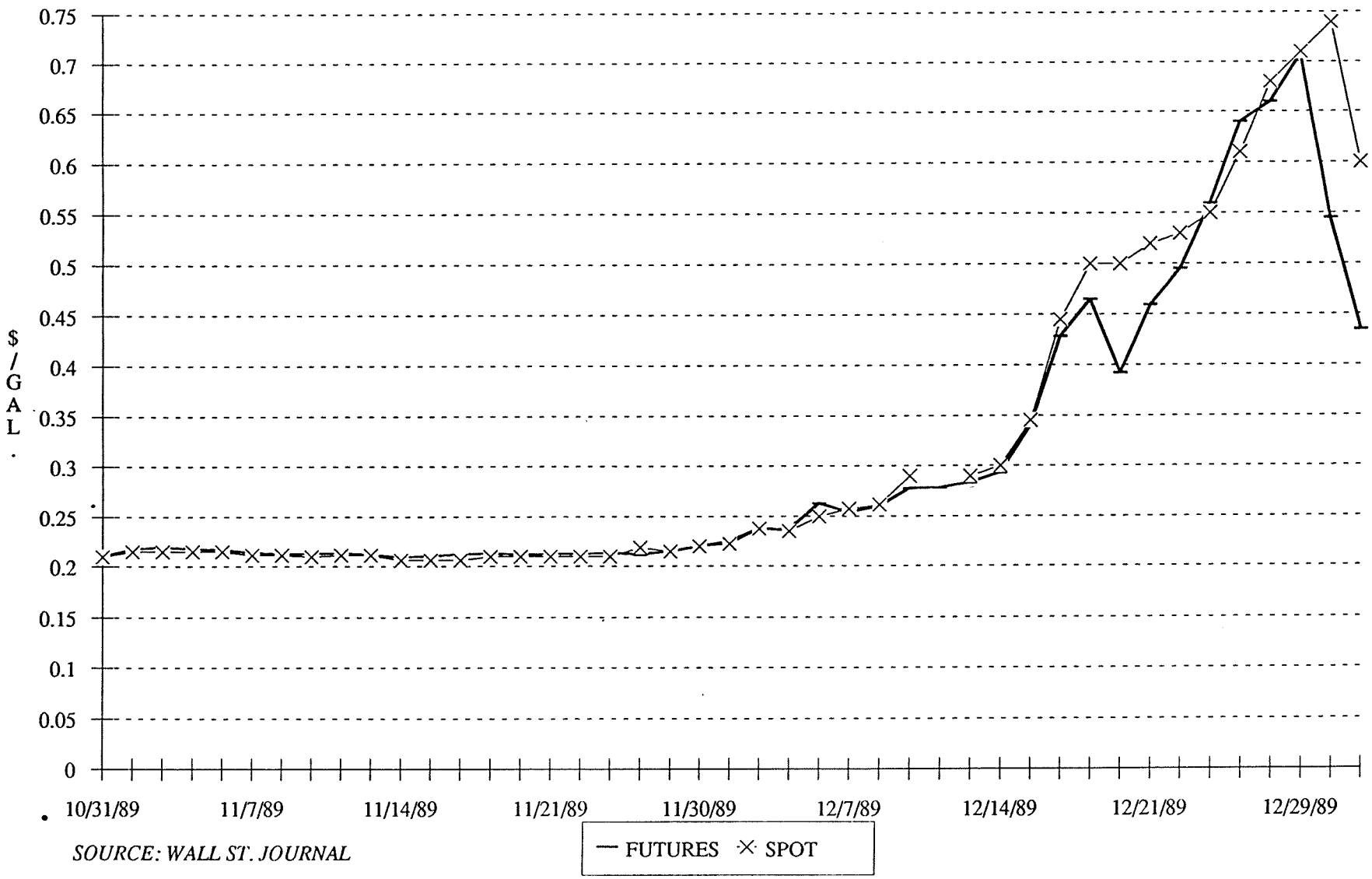
SOURCE: AMERICAN PETROLEUM INSTITUTE

MONTHLY WHOLESALE PRICES OF PROPANE AND #2 FUEL OIL



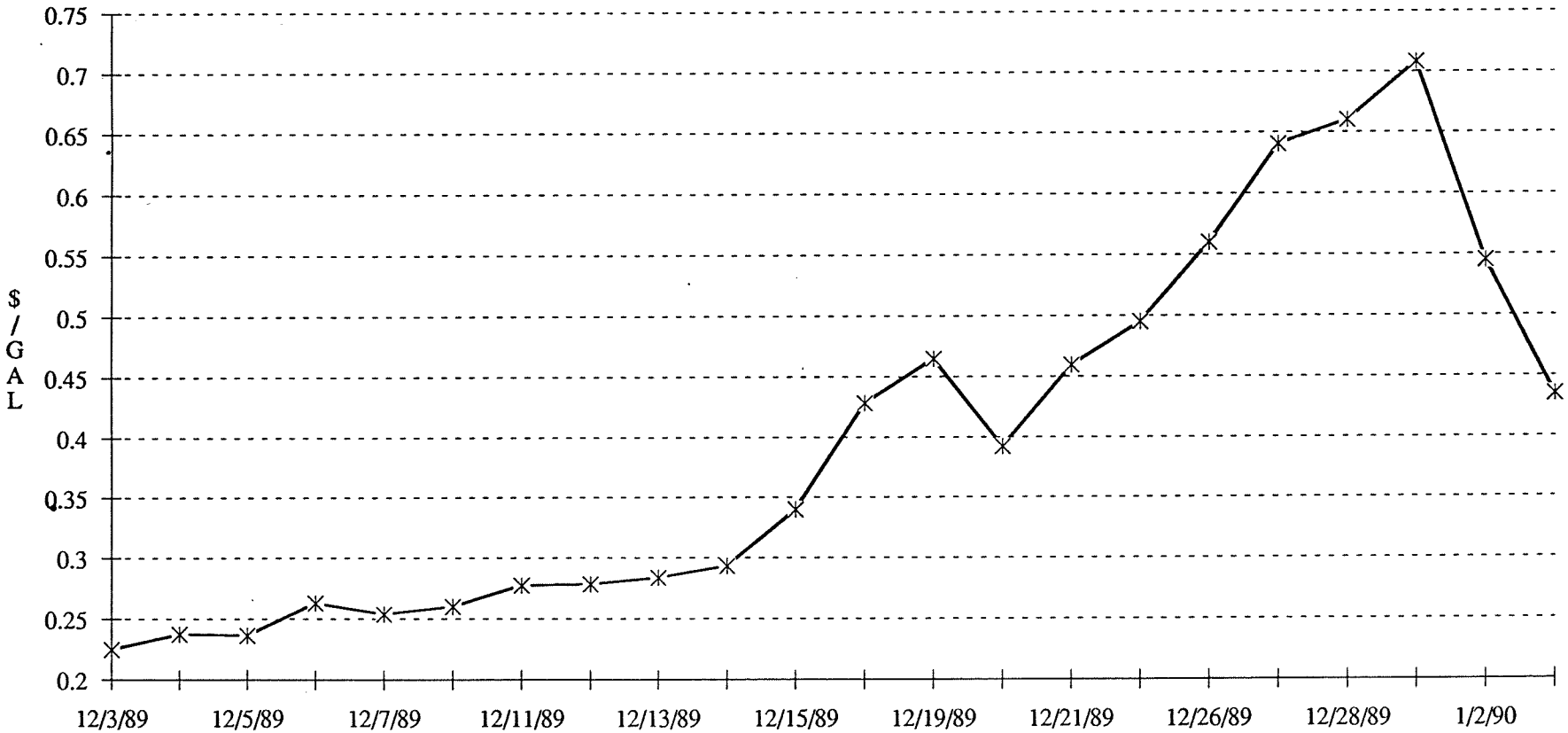
SOURCE: WALL ST. JOURNAL

DAILY PROPANE FUTURES AND SPOT MARKET PRICES



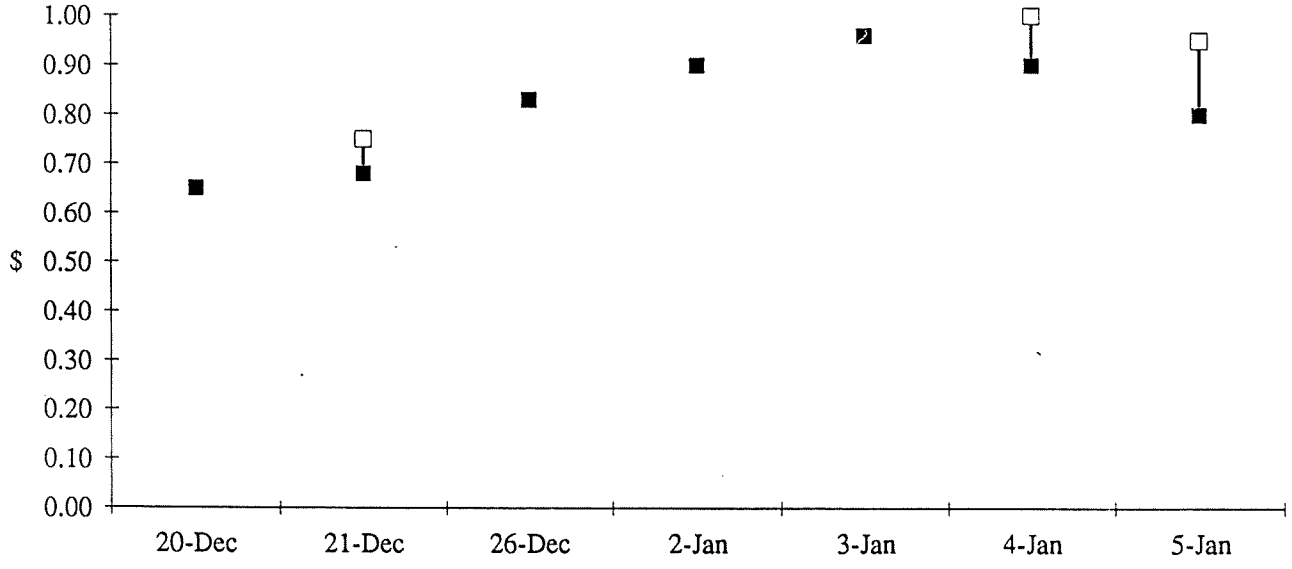
SOURCE: WALL ST. JOURNAL

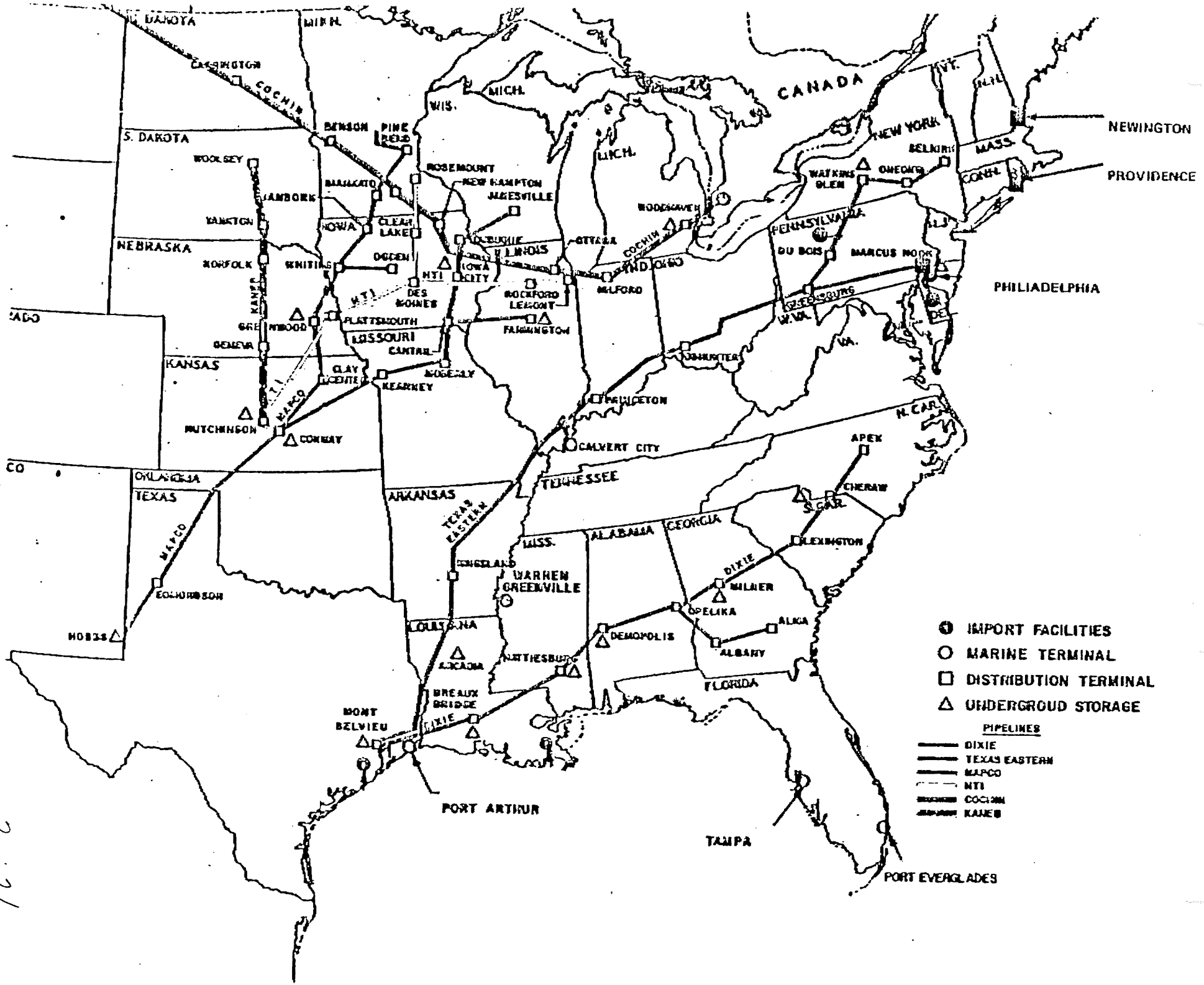
DAILY FUTURES MARKET PRICE FOR JANUARY PROPANE



SOURCE: WALL ST. JOURNAL

WHOLESALE SPOT PRICE RANGE FOR PROPANE -- CONWAY



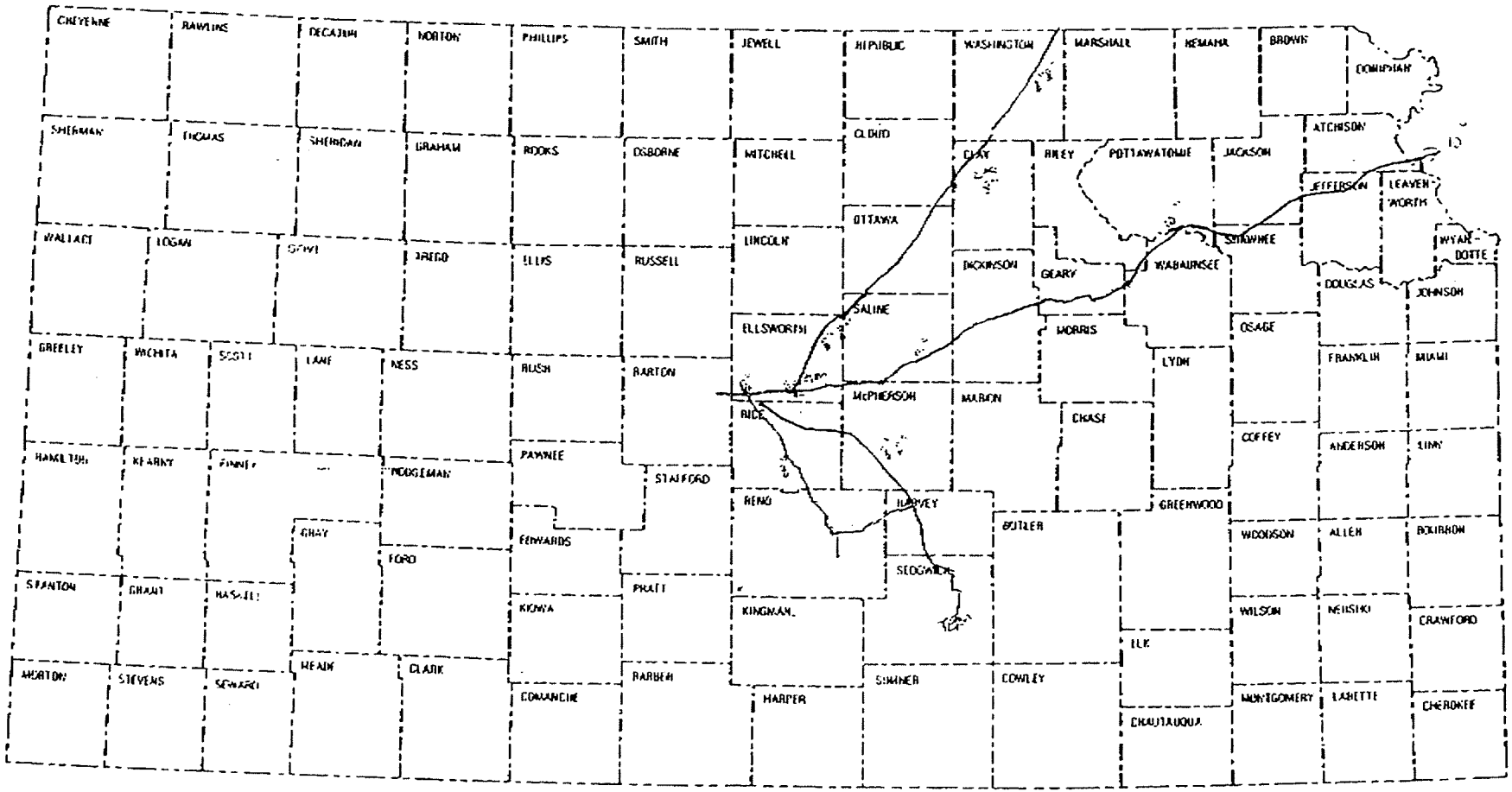


Appendix E-1

3-21


FORT SASKATCHEWAN
ALBERTA
SASKATCHEWAN
MANITOBA
CANADA
MONTANA
N. DAKOTA
MINN.
CARRINGTON
COCHIN
MICH.
WIS.
BENSON
PINE BEND
JUNCTION CITY
S. DAKOTA
WOOLSEY
ROSEMOUNT
MANKATO
NEW HAMPTON
JANESVILLE
WYOMING
SANBORN
YANKTON
IOWA
CLEAR LAKE
DUBUQUE
OTTAWA
NEBRASKA
ILLINOIS
UTAH
NORFOLK
WHITING
OGDEN
IOWA CITY
HTI
DES MOINES
ROCKFORD
LEMONT
KANEB
COLORADO
ORG
NWOOD
PLATTSMOUTH
FARMINGTON
MISSOURI
GENEVA
CANTRIL
KANSAS
CLAY CENTER
MOBERLY
WARREN
KEARNEY
WILLIAMS
MAPCO
HUTCHINSON
CONWAY
JASPER
OKLAHOMA
ARKANSAS
TEXAS EASTERN
KINGSLAND
△ UNDERGROUND STORAGE
□ DISTRIBUTION TERMINAL
PIPELINES
MAPCO
HTI
COCHIN
KANEB
WILLIAMS
KOCH

Mr. Skelton
KS Geological Survey
Wichita

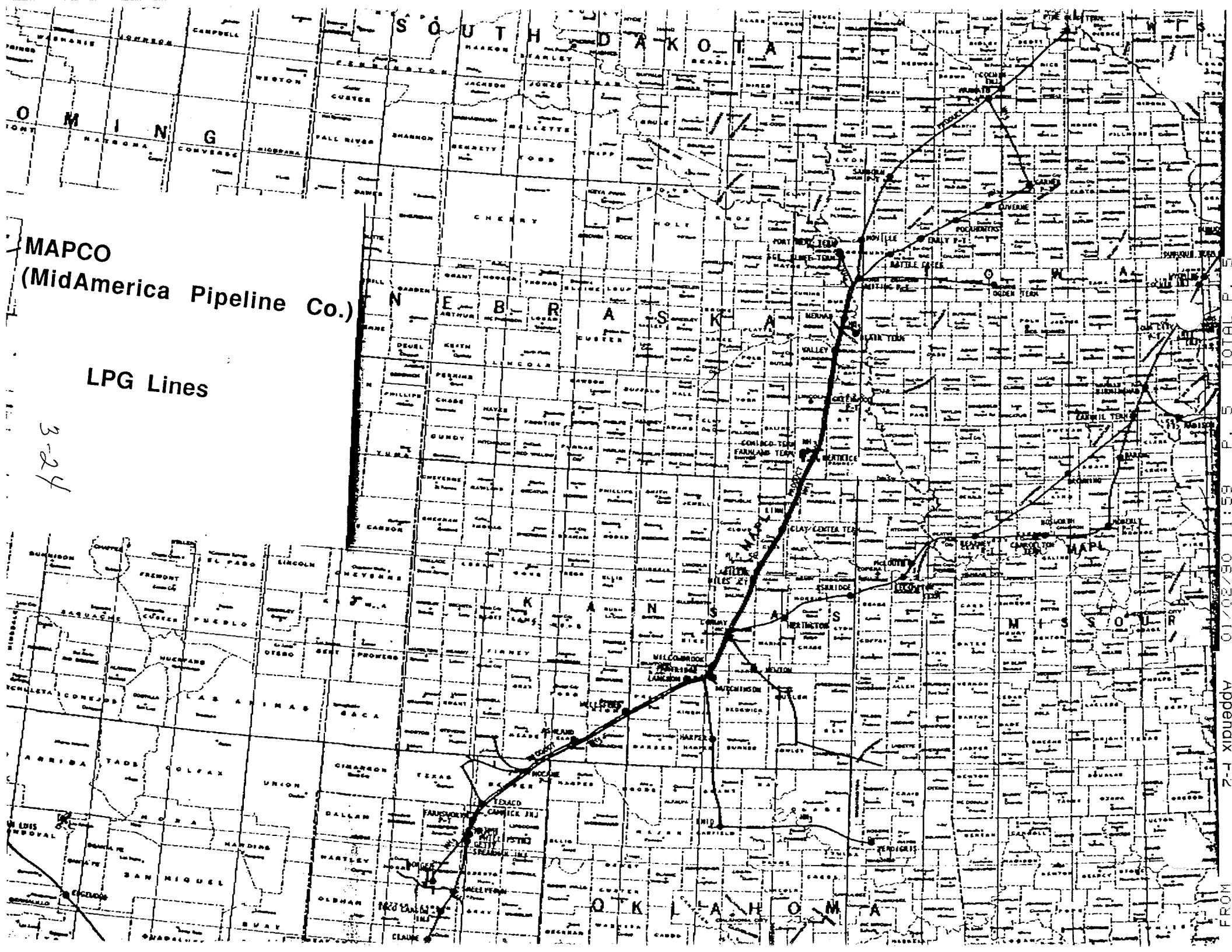


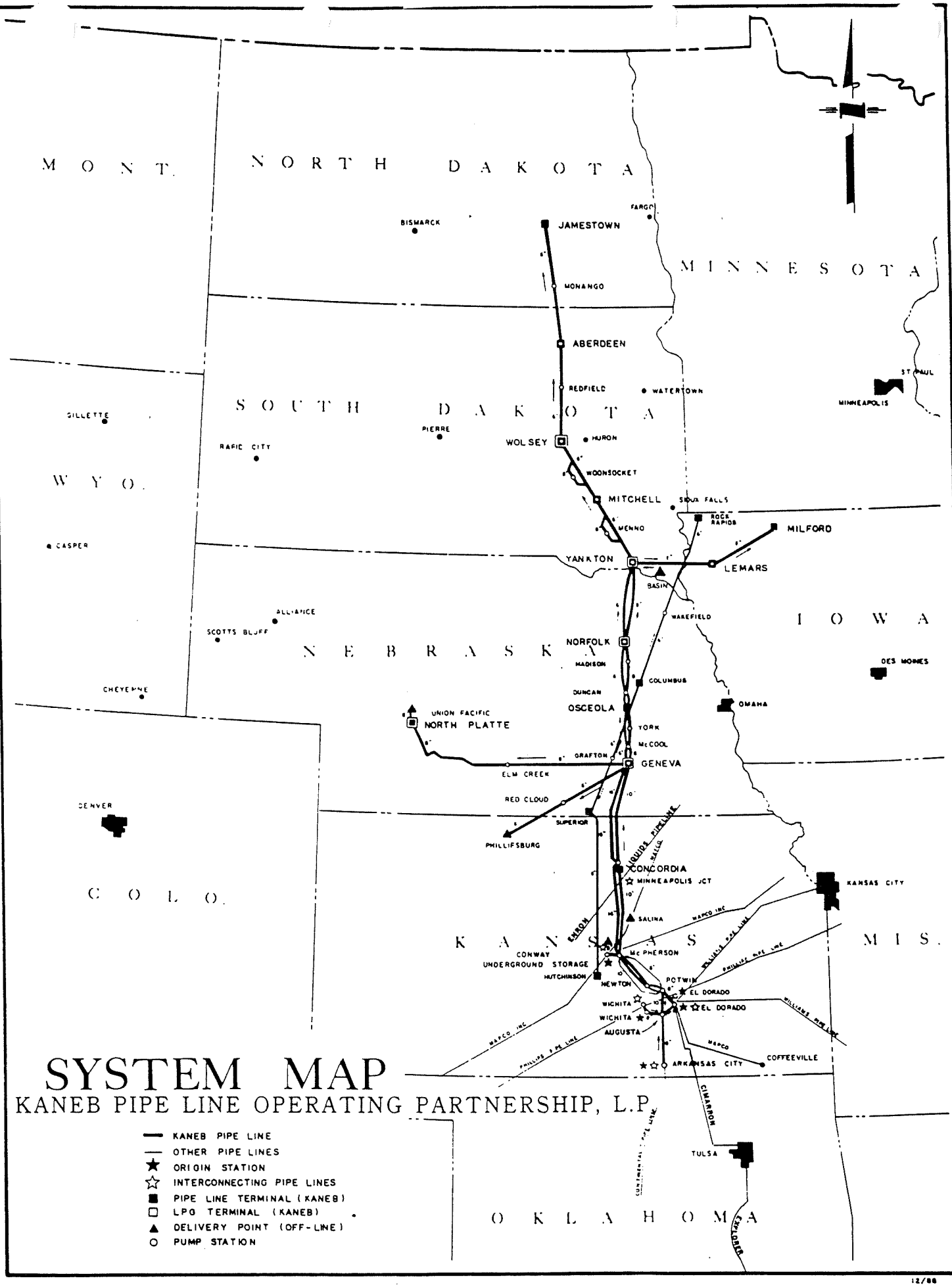
HTI (Hydrocarbon Transport Inc.)

LPG Pipelines

Appendix F-1

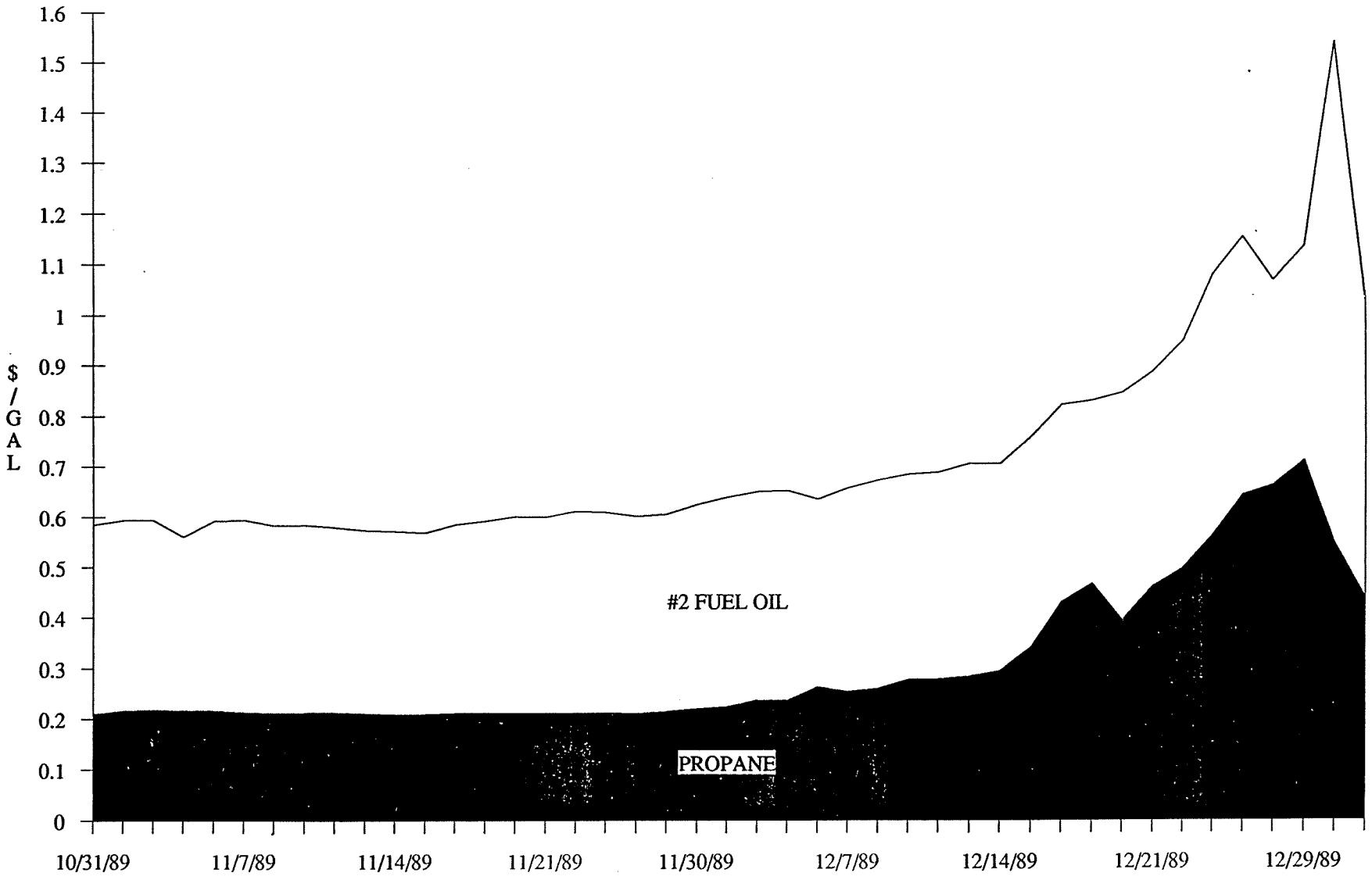
3-23


MAPCO
(MidAmerica Pipeline Co.)
LPG Lines
3-24
SOUTH DAKOTA
NEBRASKA
KANSAS
OKLAHOMA
MISSOURI
WYOMING
MAPL
MAPL
FROM 01/02/90 11:59 P. 5 TOTAL P. 5
Appendix F-2


MONT.
NORTH DAKOTA
SOUTH DAKOTA
WYO.
NEBRASKA
COLO.
KANSAS
OKLAHOMA
MINNESOTA
IOWA
MIS.
BISMARCK
FARGO
JAMESTOWN
MONANGO
ABERDEEN
REDFIELD
WATERTOWN
ST. PAUL
MINNEAPOLIS
GILLETTE
PIERRE
RAPID CITY
WOLSEY
HURON
WOONSOCKET
MITCHELL
SIOUX FALLS
ROCK RAPIDS
MILFORD
MENNO
CASPER
YANKTON
LEMARS
BASIN
ALLIANCE
SCOTTS BLUFF
WAKEFIELD
NORFOLK
MADISON
DES MOINES
CHEYENNE
COLUMBUS
DUNCAN
OSCEOLA
OMAHA
UNION PACIFIC
NORTH PLATTE
YORK
McCOOL
GRAFTON
GENEVA
ELM CREEK
DENVER
RED CLOUD
SUPERIOR
PHILLIPSBURG
CONCORDIA
MINNEAPOLIS JCT
KANSAS CITY
SALINA
CONWAY
UNDERGROUND STORAGE
McPHERSON
HUTCHINSON
NEWTON
POTWIN
EL DORADO
WICHITA
AUGUSTA
ARKANSAS CITY
COFFEEVILLE
TULSA
CIMARRON
SYSTEM MAP
KANEB PIPE LINE OPERATING PARTNERSHIP, L.P.
KANEB PIPE LINE
OTHER PIPE LINES
ORIGIN STATION
INTERCONNECTING PIPE LINES
PIPE LINE TERMINAL (KANEB)
LPG TERMINAL (KANEB)
DELIVERY POINT (OFF-LINE)
PUMP STATION
12/88

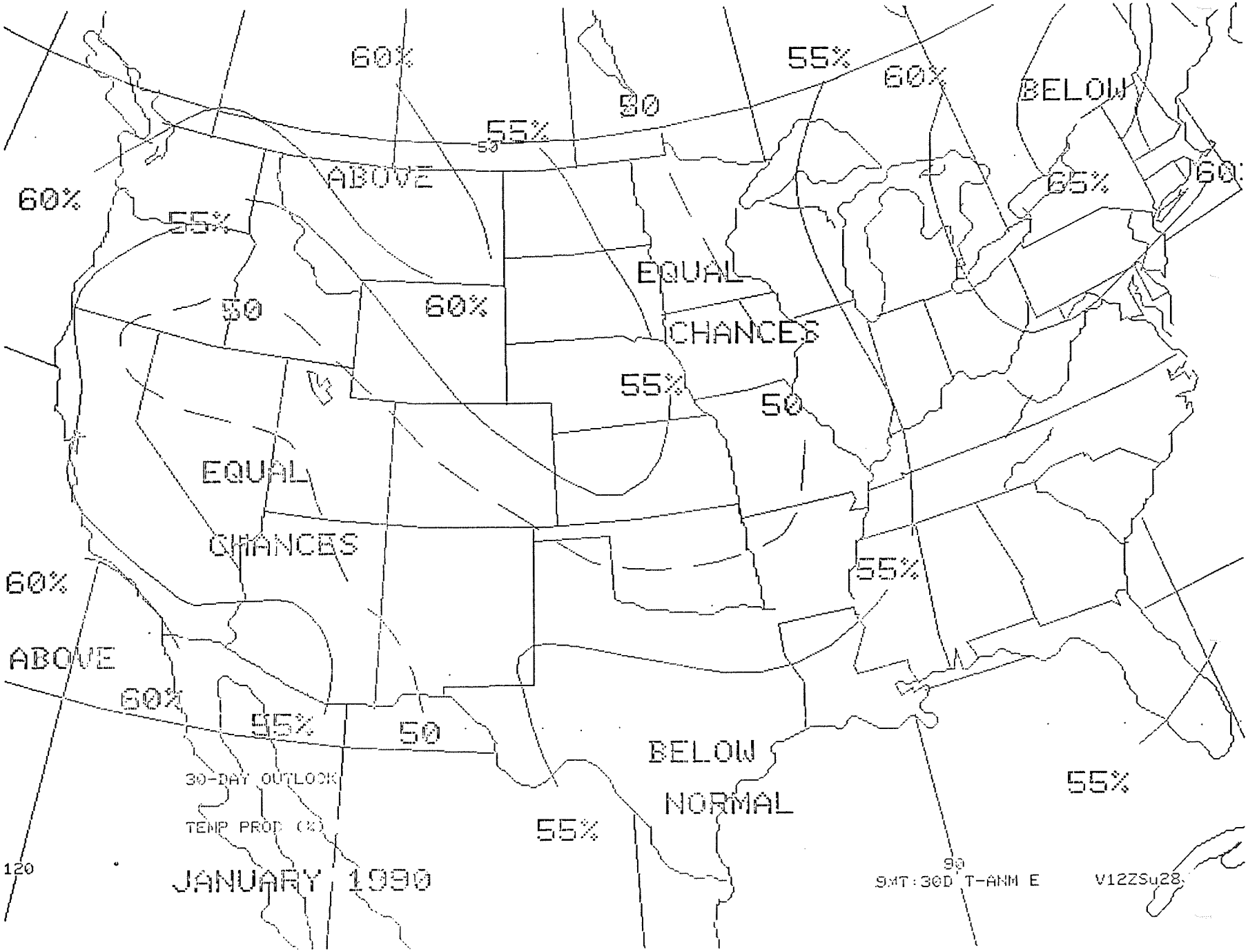
3-.25

DAILY SPOT WHOLESALE PRICES OF PROPANE AND #2 FUEL OIL



SOURCE: WALL ST. JOURNAL

92-23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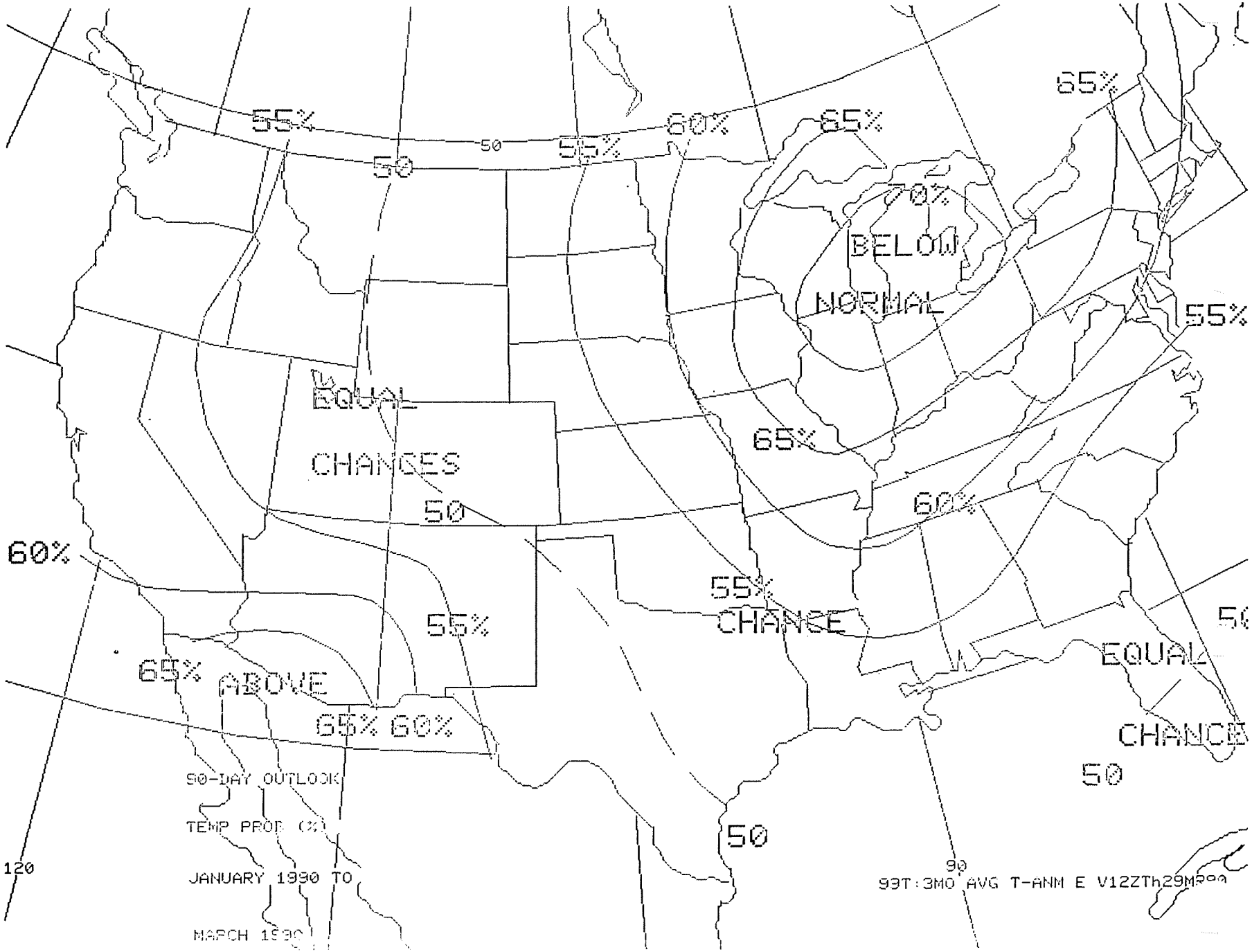
30-DAY OUTLOOK
TEMP PROB (%)
120
JANUARY 1990
90
9MT:30D T-ANM E
V12ZSu28

3-27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50
90-DAY OUTLOOK
TEMP PROB (%)
JANUARY 1990 TO
MARCH 1990
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120
90
93T:3MO AVG T-ANM E V12ZTh29M

UNITED STATES 1980-88 PROPANE IMPORTS BY P.A.D. DISTRICTS

(THOUSANDS OF GALLONS)

	1980	1981	1982	1983	1984	1985	1986	1987	1988
I	311927	373800	219828	181734	270942	373674	547932	557844	561372
II	1395441	1010310	1075032	794892	1058274	1079484	985572	1171422	1361136
III	304035	473634	425124	291270	204498	275184	1504650	793716	896406
IV	202379	220164	247584	190764	226968	227556	178248	190890	188832
V	192324	216384	240450	218526	213066	160482	192864	159600	158928

Petroleum Administration for Defense (P.A.D.) Districts

P.A.D. District I:

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, District of Columbia, Maryland, New York, Pennsylvannia, Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia

P.A.D. District II:

Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Ohio, Oklahoma, Tennessee, Wisconsin

P.A.D. District III:

Alabama, Arkansas, Louisianna, Mississippi,New Mexico, Texas, Federal Offshore Gulf

P.A.D. District IV:

Colorado, Idaho, Montanna, Utah, Wyoming

P.A.D. District V:

Alaska (North Slope and other mainland), Arizona, California, Hawaii, Nevada, Oregon, Washington, Federal Offshore California

SOURCE: ENERGY INFORMATION ADMINISTRATION

3126

Relative Costs of Energy

(excluding equipment costs & furnace efficiencies)*

Fuel	Quantity of Fuel Needed to Produce 1 Million Btus	Est. Retail Price Date	Price/unit	Cost for 1 Unit of Fuel*
Propane				
(assume 91,600 Btu/gal)	10.917 gallons	12/1	$0.43/gal	$ 4.69
		12/26	$0.88/gal	$ 9.60
Natural Gas				
(assume 1,000 Btu/cf)	1,000 cubic foot	12/89	$4.15/mcf	$ 4.15
Fuel Oil No. 1 - Heating Oil				
(assume 128,000 Btu/gal)	7.813 gallons	12/1	$0.84/gal	$ 6.56
		12/26	$0.92/gal	$ 7.19
Fuel Oil No. 2 - Diesel				
(assume 132,000 Btu/gal)	7.576 gallons	12/1	$0.74/gal	$ 5.32
		12/26	$0.82/gal	$ 5.89
		01/04	$1.31/gal	$ 9.93
Kerosene				
(assume 135,000 Btu/gal)	7.401 gallons	12/1	$1.08/gal**	$ 7.99
		12/26	$1.16/gal	$ 8.58
Gasoline				
(assume 125,000/gal)	8.000 gallons	12/89	$1.00/gal	$8.00
Electric Heating				
(assume 3,412 Btu/kwh)	293.083 kwh	12/89	$.05/kwh	$14.65
		12/89	$.08/kwh	$23.40
Coal				
(assume 12,000 Btu/lb)	83.333 lb	12/89	$25/ton	$1.04

* The reader should not use this table by itself to select a type of heating energy because additional factors influencing the overall cost need to be included, such as the efficiency of the furnace with each respective fuel, initial hook-up costs, equipment conversion costs and/or line extension costs. A complete analysis would need to be done to insure it is economical on an overall basis for a given customer to capture any of the above possible energy savings. For example, the difference between natural gas and electric heating will narrow considerably when such things as furnace efficiency, equipment costs and other factors are incorporated.

** This cost figure assumes a minimum bulk purchase of about 200 gallons. Smaller quantity purchases would result in a per unit cost of about $1.45 gallon.

JANUARY 9, 1990, LIST OF KANSAS CERTIFICATED PIPELINE COMMON CARRIERS THAT HAVE PROPANE TARIFFS ON FILE WITH K.C.C.

Enron Liquids Pipeline Company
David C. Roussel, President
P.O. Box 1188
Houston, Texas 77251-1188

Kaneb Pipeline Operating Partnership, L.P.
(Successor to Kaneb Pipeline Company)
Leon E. Hutchens, Vice President-Transportation
Suite 550 / 100 North Broadway
Wichita, Kansas 67202

Mapco Intrastate Pipeline Company, Inc.
S. Fred Isaacs, President
1800 South Baltimore
Tulsa, Oklahoma 74119

Mobil Pipe Line Company
J. O. Rogers, Manager
Tariffs and Oil Movements
P. O. Box 900
Dallas, Texas 75221

Texaco Pipeline, Inc.
(Successor to Getty Pipeline, Inc.)
C. R. Hoffman, President
P.O. Box 5568
Denver, Colorado 80217

TESTIMONY OF WILLIAM G. RIGGINS BEFORE THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES JANUARY 10, 1990

Good afternoon. I'm Bill Riggins, and I'm the Consumer Counsel for the Citizens' Utility Ratepayers Board (CURB). I want to thank you for allowing me to make a few comments here this afternoon on behalf of CURB.

As you know, CURB represents the interests of residential and small commercial ratepayers in utility matters. As such, we do not become involved in issues involving unregulated fuels such as propane. Nevertheless, when people call us and ask for information or assistance, we do what we can.

I started receiving phone calls regarding this issue a few days before Christmas. I received calls from legislators and consumers who told me how prices had risen from the 40 cent range to the 80 cent range within a three-week span. I talked to the KCC complaint staff and found out they had received similar complaints. Not having any jurisdiction in the matter, the KCC staff was telling consumers to contact you. I talked to the Consumer Protection Division of the Attorney General's office. They had received many complaints and told me they were following up each one, so I gave them the name and phone number of every consumer who contacted me about the problem.

H ENERGY AND NR
1-10-90
attach 4

I assume you've read the KCC report by now, and I think it's very well done. From the report, it appears the dramatic increases resulted from a combination of high demand, less than full inventories on a local or regional basis, and transportation facilities that were inadequate to quickly move large supplies of propane.

It's also important to keep in mind that this problem is not restricted to Kansas and it's not restricted to propane. The same types of propane increases and, in some cases, shortages, have been reported by neighboring states. In the Northeast, the same problem has been encountered with home heating oil. It's my understanding that investigations have been called for in New York. In addition, Congressman Sharp's Energy and Power Subcommittee yesterday held a hearing on the home heating oil and propane price increases. The Energy Department is preparing a report and the Justice Department is considering an investigation.

Although we have the apparent explanation, the question that comes to everyone's mind is, "Was this increase rigged? Is someone getting rich at the expense of others?" It's a legitimate question. Rumors certainly abound.

The apparent explanation is that the increase was an anomaly. If that's true, I would expect to see the prices start to fall fairly rapidly now that consumption and demand have decreased to normal and predictable levels. The longer prices stay extremely high, the more concerned we have to become that prices are being maintained at an artificially high level. Although the KCC report

4-2

indicates prices are beginning to recede, a propane retailer I visited with last night has not yet seen any decreases or promises of decreases from her supplier. She's still selling propane at $1.11 a gallon, as opposed to 44 cents a few weeks ago.

CURB commends the members of this committee for their concern about this issue. Because of this situation, you have consumers who were struggling to pay for 44 cent propane wondering how they'll pay for $1.11 propane. They don't know whether they'll be able to stay warm or stay in their homes if prices remain this high. You also have local propane retailers, who traditionally extend significant credit, that are seeing their accounts receivable skyrocket. They're wondering how they can stay in business if prices remain this high.

I've tried, but I can't think of any intra-state legislation that will provide a solution to this problem. If price-fixing is a concern, the way to address it is through an investigation at the national level, by the Justice Department, or a multi-state investigatory effort by several state attorney general offices. Laws exist to deal with price fixing if that has in fact occurred. If prices do not return to reasonable levels soon, the Legislature should encourage the appropriate agencies to undertake a full-scale investigation of the situation.

I appreciate your time and attention. If I, or the CURB members, can be of assistance in your study of this important issue, please contact us.

WASHINGTON POST 1/10/90

Panel Seeks Probe of Fuel Prices

House Subcommittee Hears of Hardships

By Thomas W. Lippman
Washington Post Staff Writer

The House energy and power subcommittee yesterday heard tales of hardship and economic devastation in several states caused by December's stunning increase in the cost of heating fuels and diesel oil, and its members clamored for an investigation into the role of the major oil companies.

"We should not sit by and let the oil barons inflict a Hobson's choice on our people: Pay ransom or freeze," said Rep. Toby Roth (D-Wis.).

"Consumers are reasonable. They know prices are going to go up in cold weather, but they don't want to be bilked and gouged by unfair, predatory and unconscionable price increases," said Rep. Matthew J. Rinaldo (R-N.J.).

"We're fed up," said Rep. Edward Markey (D-Mass.).

In short, it was open season on the major oil firms, which were criticized by subcommittee members and consumer activists for their alleged failure to maintain sufficient inventories of heating oil and propane, and on the Energy Department, which members accused of failing to anticipate the crisis or move quickly enough to confront it.

Subcommittee Chairman Philip Sharp (D-Ind.) said that "so far we have not seen evidence of illegal price fixing." But if a report to be produced by the Energy Department indicates collusion, he said, "we will be pushing to see that the Justice Department moves very quickly to investigate and prosecute."

Retail prices for home heating oil, diesel fuel and propane increased by as much as 50 percent in three weeks during December's record-breaking cold snap. Consumers using more fuel at the higher price saw their monthly bills go up as much as 300 percent, according to testimony yesterday. Wholesale prices have dropped rapidly in the past week as the weather moderated and dealers rebuilt inventories, but retail prices are declining at a much slower pace.

No representative of the major oil refiners testified. Subcommittee members said several had been requested to appear but declined. That left the field open to vociferous critics of the industry to fire away almost unchallenged, accusing the oil companies of conspiring to hold down inventories and then "gouge" consumers as demand for refined products raced upward far faster than the price of crude oil from which they are made.

Subcommittee members heard about hardships the price spurt inflicted on Indiana farmers, retirees in Nebraska, New England homeowners, Texas shrimpers, long-haul truckers and the Wisconsin poor.

Three governors—Michael S. Dukakis (D) of Massachusetts, Kay Orr (R) of Nebraska and William A. O'Neill (D) of Connecticut—appealed for help.

Dukakis said in a written statement that "every one of the hundreds of citizens who called our offices wanted to know why prices were going up, who was making money at their expense and why nobody was doing anything about it. They deserve an answer. Somebody is making money on this deal—big money."

Edwin S. Rothschild, energy poli-

See HEATING, B2, Col. 2

BY JAMES K.W. ATHERTON—THE WASHINGTON POST

Edwin S. Rothschild of Citizen Action, left, Joan Claybrook of Public Citizen and John H. Lichtblau of industry foundation.

HOME HEATING OIL PROFITS

REFINERS' ESTIMATED PROFIT MARGIN PER GALLON, IN CENTS

STATE	10/2/89	1/2/90	PERCENT INCREASE
Connecticut	18.4¢	67.9¢	270.0%
Michigan	17.8	45.3	155.2
New Jersey	16.7	68.9	313.8
New York	18.4	56.6	208.4
Ohio	18.2	45.9	152.9
Pennsylvania	15.5	59.2	283.1
Rhode Island	18.4	68.7	274.3
Wisconsin	16.9	44.6	164.7

SOURCE: Citizen Action

Justice Plans Antitrust Lawsuit To Halt Gillette-Wilkinson Deal

Department: Purchase Would Hurt Consumers

By James Rowley

"The antitrust laws do not tolerate

in a leveraged buyout partially financed by Gillette, which is based in Boston. The Dutch firm in turn has agreed to sell Wilkinson Sword's business outside the European Common Market to Gillette, the department said.

In addition, Gillette would end up with a 22.9 percent nonvoting interest in the newly created Dutch company, Swedish Match NV, which

Innovators at Elec Strut Stuff in Two

New HDTV, Digital Audi

By T.R. Reid

for

The EC closed an anti-competition case against the U.S. soft-drink manufacturer Coca-Cola, satisfied that the company had ended anti-competitive practices throughout the EC.

Axa Midi Assurances, the French insurance company that is a partner of Sir James Goldsmith in his $20 billion bid to acquire Britain's BAT Industries, has sold its African brewing interests for $243.6 million to raise cash for the acquisition.

perceived quality, but the Pepsi generation seems unimpressed with its cola.

The IRS says not to worry if the self-addressed envelope the agency sent out with tax forms doesn't have the usual processing center as the return address. The agency sent out 500,000 such envelopes with incorrect addresses, but said taxpayers can use them anyway. The returns will just be processed at a different center.

Named to Sallie Mae Board

officials as criticizing his lobbying on behalf of the U.S. League.

Hohlt said yesterday that administration officials knew of his lobbying activities and have not objected to them.

"People mix it up and shake hands when it's over," said Hohlt. "It's a matter of professionalism."

A former aide to Sen. Richard Lugar (R-Ind.), Hohlt said he has long been a political activist, working as a volunteer for Bush and the Republican National Committee.

During the Reagan administration he was named to the board of the Overseas Private Investment Corp. and the Peace Corps Advisory Council.

The U.S. League and Sallie Mae have differed in the past over Sallie Mae's purchase of a savings and loan, which it later sold after heavy criticism.

There also is strong opposition in the S&L industry to a proposal by Sallie Mae to participate in student loans backed by second mortgages on homes.

Hohlt said no one in either organization had expressed any concern about potential conflicts of interest, but if any conflicts arose he would recuse himself from the issue.

House Subcommittee Members Call for Probe of Fuel Prices

HEATING, From B1

cy director of the Citizen Action consumer group, said, "The small number of major oil companies that produce most of the nation's heating oil have used their market power to extract exorbitant profits from economically captive and powerless consumers. This is not the marketplace at work, this is out and out robbery."

Joan Claybrook, president of Public Citizen, said that "At the rate at which prices were rising, it is reasonable to suspect that many in the industry were hoarding supplies in anticipation of much higher prices."

Assistant Energy Secretary John J. Easton said the Justice Department "has received numerous complaints from customers and public officials" about the increases and is reviewing them "to determine whether a formal investigation is warranted into the question of whether collusion may have occurred here." Easton attributed the price increase to a 33 percent rise in demand caused by the cold weather, prompting Rep. Jim Cooper (D-Tenn.) to say that the oil firms had no need to appear because the Energy Department "has adopted the industry's position."

John H. Lichtblau, director of the Petroleum Industry Research Foundation, challenged the key assumption of the conspiracy theorists: that heating oil inventories were unusually low last fall.

He said that "East Coast stocks at the end of November amounted to 51.5 million barrels, or about 5.5 percent below the comparable 1988 figure but only 1 percent below comparable 1987 stocks."

U.S. Probing Allegations Of Cost-Padding by Nynex

By John Burgess
Washington Post Staff Writer

Federal auditors are investigating whether regional telephone company Nynex Corp. of New York improperly transferred profits to an equipment subsidiary whose finances are not regulated, the Federal Communications Commission said yesterday.

Now nearly complete, the investigation focuses on long-standing concerns among consumer groups and regulators that telephone companies will illegally subsidize unregulated ventures in such fields as real estate and computer maintenance by raising the rates they charge customers for phone service.

The probe focuses on Nynex Materiel Enterprises Co., a six-year-old New York company that Nynex said it created to buy supplies in bulk, thereby getting lower prices, and sell them to other wings of the phone company, which operate local telephone systems in New York and New England.

Former Nynex employees have reportedly alleged that the company in fact sold the supplies to the regulated Nynex telephone companies at vastly inflated prices. If true, this would have served to increase the equipment subsidiary's profits, which are not regulated, while raising the operating expenses of the phone companies. By law, the phone companies can raise rates if they prove that their operating costs have increased.

Allegations of cost-padding can be hard to prove because they involve highly complex accounting decisions in which the cost of equipment and people shared by regulated and unregulated companies are divided up on paper. Some consumer advocates contend that phone companies should be banned from unregulated businesses on the grounds that their finances are too complicated to be effectively monitored.

The Wall Street Journal reported yesterday that FCC auditors have found that overcharges totaled more than $120 million. The FCC declined comment on the report.

Nynex spokesman John Bonomo yesterday denied that there had been any over-billing by the subsidiary. He did confirm that two managers at the subsidiary had been fired two years ago. He declined to discuss why.

To ensure that new accounting procedures were being followed, Nynex was selected by the FCC in 1987 for a routine audit, a commission official said yesterday. After allegations of over-billing were reported by the Boston Globe, that audit was accelerated and expanded to encompass those issues.

Court Rules on Utility Deposit

Associated Press

The Supreme Court handed the Bush administration a $300 million setback yesterday, ruling that utility companies don't have to pay income tax on deposits charged customers to ensure payment of future bills.

The court unanimously ruled that an Indiana utility, Indianapolis Power and Light Co., does not have to pay taxes when collecting such deposits.

The Internal Revenue Service estimates that more than 150 such cases involving more than $300 million in potential taxes are pending in lower courts or before the tax agency.

Writing for the court in the case, *Commissioner, IRS vs. Indiana Power and Light*, Justice Harry A. Blackmun said the deposits do not amount to advance payments for electric service and therefore are not income for tax purposes.

Although Indiana Power and Light does receive some economic benefit from the deposits, he said, "IPL's right to retain the money is contingent upon events outside its control."

The U.S. Tax Court and the 7th U.S. Circuit Court of Appeals ruled that the company need not pay taxes on the deposits.

Justice Department lawyers had argued that the 7th circuit court was wrong, and noted that another federal appeals court, the 11th circuit court had ruled the opposite way.

4-5

MEMORANDUM

Kansas Legislative Research Department

Room 545-N – Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

January 10, 1990

To: House Energy and Natural Resources Committee

From: Raney Gilliland, Principal Analyst

Re: Recent Changes in Retail Propane Prices

Background

Propane is a product of oil and gas which is extracted from natural gas wellhead production and from the crude oil refining process. Upon completion of the extraction process, most propane is either transferred to an interstate pipeline or is transported by rail car to specific locations. Major users of propane include residential and commercial concerns, chemical and industrial users, farmers, and, to a lesser degree, users of engine fuel. Propane is a major heating source for rural residents in the midwest who are not serviced by natural gas pipeline systems.

According to the Kansas Corporation Commission, Kansas is the nation's third largest propane producer. Other large producers are Texas and Oklahoma. Total U.S. production for 1988 was 14,328,156,000 gallons. Kansas produces over 1 billion gallons annually. About 320 million gallons of propane are sold in Kansas each year making the state 14th in consumption. According to the Corporation Commission, Kansas has six gas processing plants in Kansas. These are: Enron Gas Processing Company, Ellsworth County; Amoco Production Company, Grant County; KN Energy, Scott County; National Helium Corporation, Seward County; Texaco Producing Inc., Ford County; and Anadarko Petroleum Corporation, Seward County. Kansas also has one of largest L-P gas storage fields in the nation; this is the Conway storage field west of McPherson.

Current Situation

Propane prices over the past few years have remained fairly stable. The past three winters have been relatively mild and this has resulted in a reduction in demand for propane. According to the Corporation Commission, during 1984 and 1985, wholesale prices were in the range of 40 to 50 cents per gallon. From 1986 to 1989, the price of propane fell, resulting in an average price of 20 to 25 cents per gallon.

A number of interrelated circumstances have led to substantial increases in the price of propane to the consumer. First, in October of 1989, national inventories of propane were below previous year levels. It appears that reduced inventories for 1989 were a result of the relatively mild winters experienced in the midwest over the past several years which had left wholesalers, dealers, and customers with overstocked inventories. Industry officials indicated to the Corporation Commission

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that this winter's lack of inventory was instrumental in contributing to the current situation of increased prices and distribution problems.

In addition to the reduction of inventories, the weather of the past month has contributed significantly to the price increases of propane. Cold temperatures caused an increase in demand that could not be met. Further, the weather caused interruptions in delivery to consumers of propane. Several refineries in the southeast experienced operating problems during the cold weather and production of propane was affected. The explosion of the Exxon refinery in Louisiana caused that refinery to suspend production for several days and subsequently curtail it for a longer period. This is significant since that refinery supplies propane for the southeastern part of the United States. Further, unusually cold weather interrupted truck transportation of propane to consumers and distribution networks. Also rail cars for propane transportation were more difficult than usual to secure. The Corporation Commission indicated that many idle rail cars normally used to transport propane were being used to store butane, making the badly needed rail cars unavailable for transporting propane.

An additional complicating factor was that an early, cold winter in Europe diverted some of the overseas imports by tanker delivery.

Governmental Action

At the direction of Governor Hayden on December 22, 1989, the Kansas Corporation Commission was asked to make an immediate assessment of the current propane gas situation. The Governor asked that the initial study be completed to determine if and why there is a shortage of propane gas. The Governor cited significant wholesale price increases that have affected the cost of delivered L-P gas as one reason he asked for the assessment. Subsequent to the release of the Corporation Commission's report, the Governor stated that he would ask Governor Terry Branstad of Iowa, the Chairman of the National Governor's Association, to authorize a study by that group as to the reasons for the increases in the price of propane. According to sources at the National Governor's Association, there has been no request by Governor Branstad to conduct a study of the issues surrounding the price increases of propane.

On the national level, Governor Terry Branstad, on behalf of the National Governor's Association, recently requested James D. Watkins, the Secretary of Energy, and Richard Thornberg, the Attorney General, to investigate the recent increases of energy prices to discover whether they were caused in any way by activities prohibited by the anti-trust laws or other federal statutes. Governor Branstad's letter, dated January 2, 1990, indicated that several other governors have made the same request to the Attorney General.

Although there have not been recent attempts to extend the authority of the Kansas Corporation Commission in the area of rate setting for L-P gas, there was at least one legislative attempt to do so in 1974. In that year, S.B. 879 was introduced and passed by the Senate. It would have given the Corporation Commission general supervision and control over all persons, firms, associations, or corporations in the business of selling L-P gas at wholesale for the purpose of regulating, establishing and fixing reasonable rates, and prescribing reasonable rules governing the rates. At that time, the Chairman of the Corporation Commission, in a letter to the Chairman of the Senate Conservation and Natural Resources Committee, expressed some concern

about the bill, but declined to take a position on the bill. The bill was reported adversely by the House Conservation and Natural Resources Committee.

It appears that several other states which are substantial consumers of propane have expressed concern about other states and have initiated some preliminary investigations into the causes for the dramatic price increases. In addition, on the national level, hearings have been initiated by Congressman Philip Sharp of Indiana, the Chairman of the Subcommittee on Energy and Power. He has called for the Administration to monitor and investigate fuel price increases through the Justice Department, the Federal Trade Commission, and the Department of Energy.

State Authority

It appears that the State of Kansas exercises regulatory authority in at least three areas regarding propane: transportation safety, intrastate transportation rates, and underground storage.

In regard to transportation safety, K.S.A. 66-1,129 gives authority for the Corporation Commission to adopt rules and regulations concerning the safe transportation of any commodity by motor vehicle. The agency has adopted by reference many of the federal motor carrier safety regulations.

The State Fire Marshal is directed pursuant to K.S.A. 31-146 to issue rules and regulations which require that vehicles used for the transportation of liquid fuel be inspected by qualified inspectors sufficiently often to ensure operation with maximum safety. K.A.R. 22-8-1 et seq., govern the regulatory oversight of the Sate Fire Marshal with respect to the identification of bulk storage containers consisting of L-P gas, requirements for certification of individuals who intend to inspect and install L-P motor fuel kits or components on a motor vehicle or public transportation vehicle, requirements for individuals who plan to operate a public L-P gas service station, and requirements for the inspection of L-P gas-powered vehicles for public transportation or transportation of school children. The State Fire Marshal is authorized by K.S.A. 31-133 to inspect the storage of highly flammable materials. To that end, inspections are conducted on propane bulk plants (18,000-30,000 gallon capacity), but not on residential consumer tanks or appliances. The State Fire Marshal inspects approximately 360 bulk plants on a regular basis.

The Department of Health and Environment has some authority regarding underground storage facilities for L-P gas (primarily in dissolved salt formations). The Kansas State Board of Agriculture is authorized to govern the metering inspection program for L-P gas.

With respect to intrastate transportation rates, it appears that the Corporation Commission has some authority over propane. Officials from that agency indicate that it is as yet unclear whether there are intrastate propane pipelines over which the Corporation Commission could have transportation rate jurisdiction. If there are such pipelines, however, the authority given to the Commission regarding transportation rates occurs in K.S.A. 66-1,215 et seq. These statutes authorize the Commission to regulate the transportation rates of products or services furnished, supplied, rendered, or produced by common carriers. Common carriers are defined by statute to include pipeline companies and public motor vehicles. These transportation rates also would apply to contract carriers. Since at least the majority of, if not all, pipelines that carry propane in Kansas appear to be interstate in nature, rates governing these lines would be

governed by the Interstate Commerce Commission, a federal agency and not the Corporation Commission.

(As Amended by Senate Committee)

Session of 1974

SENATE BILL No. 879

By Senator Saar

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AN ACT ~~extending the authority and jurisdiction of~~ *authorizing* the Kansas corporation commission to ~~propane gas and other products of crude oil and natural gas, amending K. S. A. 55-501 and 55-501 and repealing the existing section.~~ *prescribe reasonable rates for the selling at wholesale of LP-gases and to adopt reasonable rules and regulations for the administration of the provisions of the act.*

Be it enacted by the Legislature of the State of Kansas:

Section ~~1.~~ ~~K. S. A. 55-501 is hereby amended to read as follows: 55-501. All pipe lines laid, built or maintained for the conveyance of crude oil and products of crude oil and natural gas within the state of Kansas are hereby declared to be common carriers, and said conveyance of said oil and products shall be in the manner and under the restrictions in this act provided.~~ *As used in this act, the term "LP-gas" means liquefied gases, including liquefied natural gas and compressed natural gas, composed predominantly of the hydrocarbons which exist in the gaseous state at a temperature of sixty degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute.*

Sec. 2. ~~K. S. A. 55-501 is hereby amended to read as follows: 55-504.~~ The corporation commission shall have the general supervision and control over all such persons, firms, associations or corporation in the ~~performance of said~~ business ~~including crude oil and crude oil and natural gas products~~ *of selling at whole-*

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