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RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION

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RELEASED

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The Honorable Philip R. Sharp
Chairman, Subcommittee on Fossil
and Synthetic Fuels
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

Subject: Potential Administrative Impact of Implementing Selected Provisions of the Administration's Natural Gas Decontrol Plan (S. 615) (GAO/RCED-83-146)

In response to your request of March 9, 1983, we examined the potential administrative impact on the Federal Energy Regulatory Commission (FERC), the Energy Information Administration (EIA), and the Economic Regulatory Administration (ERA) of implementing selected provisions of the Natural Gas Consumer Regulatory Reform Amendments of 1983, S. 615 (H.R. 1760). All three agencies are part of the Department of Energy. Specifically, you asked that we identify and analyze all provisions of S. 615 that would increase or decrease the regulatory activities of FERC, EIA, and ERA and, to the extent possible, estimate the impacts of these activities on staff and resources.

At the time of our review, FERC, EIA, and ERA had not prepared plans for implementing the bill. FERC, however, was in the process of preparing such plans, and expected to complete them in early May 1983. EIA, while expecting to complete a preliminary analysis of the bill's impacts in late April 1983, is awaiting the completion of FERC's plans before completing its analysis. ERA does not expect to prepare implementation plans because the bill has little impact on it.

This letter discusses our objectives, scope, and methodology; provides a brief background on natural gas and the responsibilities of the three regulatory agencies; and summarizes the results of our work. Additional details are provided in enclosures I through IV. Enclosure I contains a summary of the provisions of S. 615 which could increase FERC's workload and identifies the possible requirements that would be placed on FERC. Enclosures II and III are summaries of our review of the potential impact on FERC's workload of implementing sections 603(b)

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(limitations on adjustments of purchased gas costs) and 317(a) (contract carrier transportation of natural gas), respectively. Sections 603(b) and 317(a) would be added to the Natural Gas Policy Act (NGPA) by sections 101 and 403 of the proposed legislation, respectively. Enclosure IV summarizes our review of the potential impact of the several provisions of S. 615 on EIA's data collection and analysis workload. The impacts on ERA's workload are substantially less. Consequently, the discussion of ERA is limited to this letter.

OBJECTIVES, SCOPE, AND METHODOLOGY

As requested, our objective was to identify and analyze provisions in S. 615 that have the potential to increase or decrease the administrative activities of FERC, EIA, and ERA and, to the extent possible, estimate the

--size and nature of these increases,

--number of new personnel needed,

--number and complexity of new proceedings likely to be instituted,

--amount of new appropriations required to carry out additional Federal regulatory responsibilities, and

--additional delays in considering cases that may result.

We were also requested to evaluate the administration's plans, if any have been developed, to implement S. 615. At the time of our review, however, the administration had yet to prepare implementation plans.

Because of the short time available to analyze the bill and report by April 25, combined with the lack of implementing plans to evaluate, it was not feasible to make estimates of the impacts resulting from the increases in regulatory activity. However, as agreed with your office, we (1) identified the sections of S. 615 that would impact on regulatory activities and (2) made a more detailed review of sections 603(b) and 317(a) because these provisions appear to have the greatest affect on FERC's workload. We conducted our work at FERC, EIA, and ERA headquarters in Washington, D.C. We relied primarily on discussions with representatives of FERC (primarily the Director of the Office of Pipeline and Producer Regulation), EIA, and ERA. We also considered information available from our prior and present reviews of these agencies.

This review was performed in accordance with generally accepted government audit standards.

BACKGROUND

Natural gas accounts for more than one-quarter of the Nation's energy use. Production, transmission, and distribution of natural gas are regulated by various levels of government. Significant Federal regulation of natural gas prices and interstate pipeline transportation began in 1938 under the Natural Gas Act (NGA). The Natural Gas Policy Act of 1978 (NGPA) (Public Law 95-621) extended price regulation and established ceiling prices for various categories of natural gas. The Federal agency which implements and enforces the requirements of NGA and NGPA is FERC, which was assigned most of the functions of the former Federal Power Commission.

EIA was established in 1977 by the Department of Energy Organization Act (Public Law 95-91) as the focal point for developing and maintaining comprehensive energy information programs. EIA currently assists FERC in implementing NGPA by performing such functions as collecting, calculating, and publishing pricing data.

The Powerplant and Industrial Fuel Use Act of 1978 (FUA) (Public Law 95-620), among other things, limited or prohibited the use of natural gas in new electric powerplants and major industrial installations. ERA administers this aspect of natural gas usage.

Reports of substantial increases in retail natural gas prices--both recent and expected--have attracted widespread congressional and public attention. These increases seem particularly puzzling to consumers in light of reported oversupplies of natural gas, meaning that more gas could be produced and delivered than is being consumed. In an unregulated market, such an oversupply of deliverable gas would be expected to lead to declining, rather than increasing, prices to consumers.

On February 28, 1983, the administration submitted S. 615 entitled the "Natural Gas Consumer Regulatory Reform Amendments of 1983." This bill would substantially modify both NGPA and FUA. According to the administration, S. 615's objectives are to protect consumers from price increases, provide a smooth and rapid transition to wellhead price decontrol, and allow producer-pipeline contracts to be changed to reflect market forces.

POTENTIAL IMPACT ON FERC's WORKLOAD

We identified six sections of the bill (enclosure I) that contain provisions which could increase FERC's workload and one section that could reduce it.

The one section that could reduce FERC's workload is section 503(a) which repeals the incremental pricing provisions of NGPA. As used in NGPA, the term incremental pricing means that designated industrial users must pay a surcharge for gas they purchase. The purpose of the surcharge was to transfer the higher deregulated prices of natural gas to industrial users, so that they will pressure their suppliers to obtain natural gas at the lowest possible cost. Residential and small commercial users are to benefit from these cost transfers by paying less for the gas than they would otherwise pay. However, FERC officials indicated that the workload impact of the incremental pricing program has been minimal and that, therefore, its repeal would not have a significant impact.

While we could not quantify the overall specific impacts on FERC's workload, our examination of sections 603(b) and 317(a) disclosed information that shows FERC's workload could be substantially increased. Regarding section 603(b), the most critical factor in determining the workload impacts is the number of applications filed for increases in purchased gas costs. Under section 603(b), all pipelines could file more frequently than now allowed, perhaps even monthly. If the same number of pipelines file monthly for increases in purchased gas costs that are presently filing annually or semiannually, FERC would experience about a sixfold increase in the number of filings that are handled by its current staff of seven analysts and nine auditors. FERC expects to experience a heavy filing workload under this section. In addition, section 603(b) calls for FERC to make determinations not required under the current purchased gas adjustment (PGA) review process, such as a determination that the gas costs have been prudently incurred.

Section 317(a) would provide that FERC, upon application by a gas producer or purchaser, shall order an interstate pipeline to transport gas on behalf of the applicant under such terms and conditions as FERC determines to be just and reasonable. The most critical factor in determining the workload impacts of this section is again the number of applications filed. FERC officials expect to experience a heavy workload under this section. Although FERC currently has responsibility to authorize gas transportation under NGPA, it is significantly different from that under section 317(a). FERC officials see the pipelines in a potentially adversarial role when ordered by FERC to transport gas under section 317(a). Before such an order can be given, FERC will have to make a determination on a case-by-case basis that (1) available pipeline capacity exists, (2) there will be no undue burden on pipelines due to the transportation, (3) no construction of new facilities will be required, and (4) the transportation will not impair service to the pipeline's existing customers. In contrast, under NGPA, the parties to the gas transportation had already reached agreement and were merely requesting authority for the transportation from FERC.

POTENTIAL IMPACT ON EIA's WORKLOAD

Although S. 615 does not specifically mention EIA, it contains numerous provisions that could require extensive data gathering, calculation, and publication activities. FERC and EIA officials have discussed EIA's possible assistance in calculating the ceiling price of natural gas; however, FERC has determined neither its total data requirements under S. 615 nor the assistance that it will request from EIA.

EIA currently spends 1.5 staff years of effort in meeting the NGPA incremental pricing requirement for collecting, calculating, and publishing alternative fuel price ceilings based on the regional levels of fuel oil. S. 615 would eliminate this requirement, and EIA officials told us that the 1.5 staff years could be shifted to perform work in connection with the S. 615 data requirements for the proposed gas cap. Nevertheless, these officials said that the 1.5 staff years may not be sufficient to meet EIA's potential responsibilities in connection with the gas cap provision. EIA expects to complete its preliminary analysis of the bill's impacts in late April 1983. However a final analysis will await the completion of FERC's plan. The EIA officials told us, however, that additional resources could be required by EIA to meet all of the data requirements of S. 615.

POTENTIAL IMPACT ON ERA's WORKLOAD

The only section of the proposed legislation which would impact on ERA's workload concerns repeal of certain sections of FUA. The elimination of the regulatory activities associated with these sections would only slightly reduce ERA's workload.

Sections 201 and 202 of FUA currently prohibit the use of natural gas and petroleum as a primary energy source in new electric powerplants, major industrial installations, and non-boiler installations. These sections also prohibit construction of new powerplants without alternate fuel capability. ERA currently processes petitions for exemptions from these requirements which would be eliminated if the proposed legislation was enacted. A reduction in ERA's workload of about 2 to 3 staff years and Federal Register publication costs of about $15,000 annually would be realized with the elimination of the duties ERA currently performs under these provisions of FUA.

The proposed legislation would also repeal sections 302, 401, 402 and 405 of FUA, which for the most part, prohibit or restrict the use of natural gas or petroleum as a primary energy source in certain existing installations, such as major fuel-burning installations with alternate fuel capability. The repeal of these sections, however, would have minimal impact on ERA's workload because they have rarely been used.

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We did not obtain agency comments on this report. However, we discussed its contents with FERC, EIA, and ERA program officials. Their comments are included where appropriate. As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its date of issuance. At that time, we will send copies to the Director, Office of Management and Budget; the Secretary of Energy; the Chairman, Federal Energy Regulatory Commission; and other interested parties.

Sincerely yours,

J. Dexter Peach
Director

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DESCRIPTION OF SECTIONS OF S. 615

WHICH COULD INCREASE FERC's WORKLOAD

The purpose of this enclosure is to provide a general understanding of those sections of S. 615 that would place new requirements on FERC. These new requirements would include rulemaking, collecting and analyzing data, holding hearings, and issuing orders. Because of time constraints and in accordance with agreements with your office, we made a more detailed review of sections 603(b), and 317(a) which were added to NGPA by sections 101 and 403 of the bill, respectively. We agreed on these two sections because they appear to be the provisions that would have the greatest impact on FERC's workload.

S.615 has six major sections that contain provisions which could increase FERC's workload. These are

--Section 101, which places limitations on the passthrough of purchased gas adjustment costs;

--Section 301, which establishes a gas cap or ceiling price for natural gas;

--Section 302, which gives natural gas purchasers the right to refuse paying for gas not taken although contracted for;

--Section 303, which authorizes either party to a contract for the first sale of natural gas to terminate the contract;

--Section 401, which expands FERC's authority to facilitate the movement of gas between the interstate and intrastate markets; and

--Section 403, which authorizes FERC to require interstate pipelines to carry gas between producers and purchasers.

Section 101 limits a pipeline's ability to pass through to its customers increases in purchased gas adjustment (PGA) costs--the cost of acquiring natural gas at the wellhead and from other suppliers. This section would impose a moratorium until 1986 on the prompt passthrough to natural gas customers of price increases that result from an interstate pipeline's paying higher prices for natural gas. Section 101 adds section 603 to NGPA. A discussion of section 603(b), which deals with PGA passthrough limitations, and the possible impacts on FERC's workload are included as enclosure II.

Section 301 provides a limitation on ceiling prices for certain natural gas. This section establishes a gas cap, a transitional pricing mechanism for natural gas until it is removed from price controls. Pending contract renegotiation, or January 1, 1986, when all remaining wellhead price controls are eliminated, gas that remains under NGPA regulation, except gas under section 107(c)(5) of NGPA (certain high cost gas), will be subject to a price ceiling--that is, the lower of either the maximum lawful price under any existing section of the NGPA or the gas cap price. The gas cap will be the volume-weighted average price of all new and renegotiated contracts. To reflect changing market conditions, the average price--to be calculated monthly--will be based on prices and volumes estimated to be delivered during the second, third, and fourth months before the month for which the cap is published. Only gas delivered during the first 3 months of contracts newly entered into or amended following enactment will be included.

This section could include placing the following requirements on FERC unless it delegates the responsibilities to EIA:

1. Within 30 days of enactment, FERC must issue implementing rules.

2. FERC would presumably review the contract data filed by purchasers of natural gas for all first-sale contracts executed or amended after the date of enactment to assure that all required data is submitted.

3. Monthly, beginning 4 months after enactment, FERC must compute and publish the gas cap price.

4. FERC would presumably periodically compare the actual deliveries to the estimates submitted by pipelines to assure the validity of the gas cap price.

Section 302 gives natural gas purchasers the right to refuse until January 1, 1986, natural gas volumes in excess of 70 percent of availability from wells included under a first sale contract. Under some existing contracts, pipelines are required to take a certain percentage of well deliverability or pay for the gas not taken. Such requirements are called "take or pay" commitments. Upon 30 days' notice to the seller, a purchaser may elect not to accept delivery, without obligation to pay for, volumes of gas in excess of 70 percent of well deliverability. If the seller subsequently elects its right to terminate the contract with respect to amounts not taken, the purchaser must release the seller from all legal and contractual obligations. If the purchaser is a pipeline, the purchaser must offer transportation for the gas.

A pipeline that was a party to the reduced-take contract has an obligation to transport natural gas for the producer to a maximum annual amount measured against previous deliveries. An interstate pipeline may apply to FERC for a hearing and order to limit the pipeline's obligation. FERC may order a limitation if compliance would (1) require construction of additional facilities or (2) impair the ability of the pipeline to give adequate service to its existing customers. The interstate pipeline's compensation for transportation is the cost of transportation established by FERC plus 5 cents per million Btu's. FERC may establish a different rate as just compensation.

In addition, FERC, by rule or order, may determine that this section shall not apply to the extent that production of the obligated amount of delivery is necessary to protect the rights of the producer and landowner.

This section could include placing the following requirements on FERC:

1. On a continuing basis, FERC would have to review pipeline applications, operations, and capacity data, conduct hearings, and issue orders to limit a pipeline's transportation obligation.

2. FERC would evaluate data submitted by producers to protect their rights.

3. FERC could issue rules to establish a new transportation rate.

Section 303 would authorize either party to a contract for the first sale of natural gas to terminate the contract during 1985. It applies to preenactment contracts that have not been amended. All contract terminations would require 45 days' advance notice and could not go into effect before January 1, 1985, or after December 31, 1985. Upon terminating, both parties to the contract would be released from all future obligations under the terminated contracts.

Section 303 basically imposes the same requirements on FERC regarding terminated contracts as section 302 does on reduced-take contracts. The major difference is that under section 303, FERC will not have to make an evaluation to protect the rights of producers and landowners.

Section 401 expands FERC's authority to facilitate the movement of gas between the interstate and intrastate markets. Current law permits gas in intrastate markets to flow into interstate markets. Section 401 would amend the NGPA to allow natural gas to flow both ways to correct imbalances in any market.

This section could include placing the following requirements on FERC:

1. Issue rules or orders to authorize transportation of natural gas on behalf of any person.

2. Assure that transportation rates are just and reasonable within the meaning of NGA.

3. Issue rules or orders authorizing pipelines or local distribution companies to assign surplus gas to any other pipeline or local distribution company.

4. Determine for each applicable pipeline or local distribution company the current demand for natural gas in order to determine its level of "surplus natural gas."

Section 403 would authorize FERC, upon application of a producer or purchaser, to order an interstate pipeline to carry natural gas between the producer and purchaser. Section 403 adds section 317 to NGPA. A discussion of section 317(a), which deals with contract carrier transportation of natural gas and the possible impacts on FERC's workload, is included as enclosure III.

POTENTIAL ADMINISTRATIVE IMPACT ON FERC OF IMPLEMENTING SECTION 603(b)

BACKGROUND

Federal regulation of interstate transportation and sale of natural gas dates from the Natural Gas Act of 1938. A key aspect is the setting of tariffs, or rates, that may be charged. In general, pipelines are allowed to charge their customers rates which enable them to recover direct expenditures--such as the natural gas they purchase--and to earn a just and reasonable rate of return on their pipelines and other investments.

Pipeline tariff rates are reviewed for most major pipelines at least every 3 years based on an examination of the cost of service. One aspect of such a review is a determination of the cost of gas purchased by the pipeline for resale. Recognizing that purchased gas costs represent the major cost item to most pipelines and would be likely to change more frequently than every 3 years, FERC's predecessor, the Federal Power Commission, issued regulations which allowed pipelines, starting in 1972, to adjust their rates in the intervening period.

A pipeline's request to change its effective tariff rates to reflect changes in purchased gas costs is known as a purchased gas adjustment (PGA) filing. Most major interstate pipelines (53 of 58) file an application every 6 months, while the remainder file annually. These filings are subject to FERC review and approval.

Under current law, the pipeline's requested rate increase can be accepted, or it can and in a PGA proceeding usually does, go into effect after a 1-day suspension, subject to refund if FERC ultimately determines the change in rate is not just and reasonable. Alternatively, FERC can suspend the effectiveness of the rate increase for no more than 5 months, at which time the rate goes into effect subject to refund.

PROPOSED CHANGES

Section 101 would amend NGPA Title VI to add a new section 603, entitled "Limitation on the Passthrough of Certain Purchased Gas Costs." Section 603(a) would establish a ceiling, called the allowed rate, on the recovery of purchased gas costs through PGA filings. The allowed rate would be based on the pipeline's average purchased gas costs for the month before enactment and would be increased monthly by an adjustment amount equal to the difference between this rate and the national average purchased gas costs for each month adjusted for inflation.

The purchased gas component of a pipeline's rate could be put into effect through existing PGA procedures so long as that component did not exceed the allowed rate, but increases above that rate could be put into effect only through the special procedure outlined in Section 603(b). With the agreement of your office, we limited our review of limitation on the passthrough of certain gas costs to one section--section 603(b).

Section 603(b) would provide that a pipeline may file with FERC to increase its rate to reflect any purchased gas costs that 603(a) prevents it from recovering. These are hereinafter referred to as new PGA filings. However, rate increases prohibited by section 603(a) could not go into effect unless FERC 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, FERC would be required to consider the availability of lower priced gas and the need for the pipeline to acquire the gas in order to render adequate service to its existing customers.

In order to minimize the amount of time a pipeline would have to wait to find out whether the passthrough of any costs in excess of inflation would be allowed, this section would require FERC to establish a special proceeding to review applications to pass through such costs. FERC would be required to adopt rules for such proceedings that would facilitate expeditious decisions.

POTENTIAL IMPACT OF PROPOSED CHANGE

At the time of our review, FERC had not prepared an overall assessment of the potential impact on its operations of implementing section 603(b) but was in the process of making such an evaluation. Many elements of this section of the proposed legislation could have an impact on FERC's workload. It is not possible to accurately quantify this workload because of all the uncertainties about how the other sections of the legislation might affect prices and how, in turn, such prices would affect the number of pipelines that may file for increases in purchased gas costs. The number of such filings is the most critical factor in determining the impacts of this proposed legislation on FERC's workload. It appears likely, however, according to a FERC official, that there will be many filings because the maximum lawful prices under NGPA will continue to escalate and contract renegotiations will probably result in higher prices.

Under section 603(b), all pipelines could file frequently, perhaps each month. The possibility of numerous filings was raised by the Chairman of FERC in his March 12, 1983, testimony before the Senate Committee on Energy and Natural Resources. He stated that:

> "These procedural limitations [of Section 603] appear likely to have two serious adverse consequences. The first is that the Commission may require substantially greater staff resources in order to process this caseload. The apparent prohibition against basing rates on projected future costs is likely to encourage frequent rate filings. It appears that the Commission could be confronted with literally hundreds of concurrent rate cases under the new Section 603 procedures, in addition to the ordinary rate cases filed under Section 4 of the Natural Gas Act."

Currently, 53 of the 58 major pipelines submit PGA filings every 6 months and the other 5 submit filings annually, for a total of 111 PGA filings each year. If, under the proposed legislation, all major pipelines filed monthly, as many as 696 filings would be made annually. This would be about six times the number of filings handled by the current PGA staff of seven analysts and nine auditors. While we have made some comparisons with FERC's present efforts to evaluate PGA filings, it should be clearly understood that FERC's review of new PGA filings under section 603(b) would be much more extensive. For example, FERC does not attempt to determine whether costs are prudently incurred in its present review of PGA filings. Such a determination is required by section 603(b).

In this connection, FERC would have to clearly define certain terms, such as "prudently incurred" and determine what data would be needed to reasonably determine that costs meet the definition. The proposed legislation also requires FERC to 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. To do this, FERC will have to require pipelines to submit appropriate data for review and analysis. Such a detailed analysis of the accuracy and completeness of pipeline company data would seem to generate a significant additional workload, particularly if new filings are numerous.

<u>FERC believes it has flexibility to manage increased workload</u>

FERC officials responsible for implementing section 603(b) told us that they had made a series of preliminary assumptions for each of the calendar years 1983 to 1985 which together would make the implementation of section 603(b) more manageable. We did not evaluate the legality or practicality of FERC's assumptions. Even though the legislation does not limit the number of

PGA filings by pipelines, FERC officials suggested that, since the bill is silent, they may be able to use FERC's existing PGA procedures to limit pipelines to semiannual rather than more frequent filings. FERC officials also suggested that the proposed legislation could be amended to provide FERC with the authority needed to impose expanded filing requirements on pipelines so that the information needed to make the determinations required under section 603(b) could be obtained. This would involve considerable FERC review but should facilitate disposition of the filings on an expedited basis.

FERC officials further suggested that it might be possible for them to handle most of the new PGA filings through the use of informal procedures, such as conferences, to reduce the differences between the pipelines and intervenors. Such procedures could shorten the hearing process by reducing the number of issues to be decided during the hearings, or eliminate the need for hearings.

Even with these assumptions, however, FERC officials would still envision that they may need to hire additional staff to process the paperwork, analyze and audit the pipeline submissions, and hold hearings.

Staff management options available to FERC

Although FERC indicated that it may need to hire additional staff to implement section 603(b), other alternatives or combination of alternatives are available to resolve this staffing problem. Each alternative, however, has its drawbacks.

First, as FERC indicated, it could handle the additional workload by hiring new staff. Certainly some new staff may be necessary if the present staff is not large enough or lacks the skills or capabilities needed to perform the various analyses and to make the critical determinations required by the proposed legislation. Experience has shown, however, that the lead time needed to hire such skilled analysts, auditors, and perhaps administrative law judges is lengthy. Any delays in hiring could lead to startup problems and result in work backlogs. Even if the staffing needs were met in a timely manner, the section 603(b) workload, which generated the need for the staff, would disappear in January 1986 when all wellhead prices would be decontrolled under the proposal. Consequently, after about 2 years, FERC could have staff on board that are no longer needed. In addition to the factors discussed above, this limited time could affect FERC's ability to attract qualified staff and lead to further delays in hiring.

Another alternative for handling the increased workload would be to reorder the priorities of the current FERC staff having the requisite capabilities to fulfill the requirements of section 603(b). This could avoid the problem of having to hire new staff for such a short period of time but could exacerbate FERC's long-standing case processing problems, which we reported on in 1980.[1] In the past 2 years, FERC has made steady progress in reducing its case backlog, but the added workload resulting from this proposed legislation could jeopardize that progress.

A third alternative for handling the increased workload would be a combination of new staff hires and a reordering of the priorities of some current FERC staff. Such a combination would lessen the severity of the consequences resulting from each of the alternatives previously discussed but would nevertheless suffer the consequences of each one.

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[1]"Additional Management Improvements Are Needed to Speed Case Processing at the Federal Energy Regulatory Commission" (EMD-80-54, July 15, 1980).

POTENTIAL ADMINISTRATIVE IMPACT ON FERC OF IMPLEMENTING SECTION 317(a)

BACKGROUND

In 1938 NGA initiated Federal regulation of the transportation of natural gas by interstate pipelines. Under section 7 of NGA, FERC approves transportation of natural gas in interstate commerce.

Starting in 1975, first as a result of natural gas shortages and later as a result of the loss of Iranian oil imports, FERC (and its predecessor, the Federal Power Commission) issued a series of orders authorizing the direct sale of natural gas. Order 533 established a general policy of permitting interstate pipelines to transport gas purchased directly from producers by high-priority industrial end users. This order permitted industrial consumers that could qualify under its stringent conditions to purchase gas from a producer and request a pipeline to apply for a certificate authorizing the pipeline to transport the gas for the end user. This order was extended by the issuance of Order Number 2 on February 1, 1978.

The Public Utility Regulatory Policies Act of 1978 added section 7(c)(2) to NGA to provide for the transportation of natural gas sold by a producer to an eligible user or produced and consumed by an eligible user. Order Number 27 was issued by FERC on April 23, 1979, to implement this requirement and defined eligible users that would be afforded priority treatment as schools, hospitals, and essential agricultural users. Applications for transportation must include copies of executed contracts. In addition, the producer, pipeline, and eligible user must agree to the transportation.

In 1978 NGPA was enacted including the authorizations for transportation under sections 311 and 312. Section 311(a)(1) allows FERC to authorize transportation of natural gas by interstate pipelines on behalf of intrastate pipelines and local distribution companies. Section 311(a)(2) allows FERC to authorize the transportation of natural gas by intrastate pipelines on behalf of interstate pipelines and local distribution companies served by interstate pipelines. Section 312 allows FERC to authorize the assignment of surplus natural gas by intrastate pipelines to interstate pipelines or local distribution companies.

To implement sections 311 and 312, FERC established regulations which allow companies to commence deliveries of natural gas sold, assigned, or transported before FERC approval on a self-implementing basis for up to two years, under certain conditions. Any interstate pipeline company engaged in such a transaction must provide FERC with a summary report by telegram within 48 hours of its commencement, and 30 to 60 days thereafter the pipeline must file a written report. Intrastate pipelines must file this report with both FERC and the appropriate State regulatory agency.

On May 17, 1979, FERC issued Order Number 30 which authorized the transportation of natural gas by pipelines on behalf of end users in order to displace fuel oil. Pipelines are required to submit an initial report to FERC within 48 hours of the start of the transportation. A more complete report is required within 60 days of the completion of the transaction.

PROPOSED CHANGES

The proposed legislation would generally require pipeline transportation under three conditions:

--If the purchaser reduces "take-or-pay" contract purchases to 70 percent of deliverability.

--If either party unilaterally terminates the contract during 1985.

--If any party petitions FERC, the Commission may order an interstate pipeline to transport gas.

However, these conditions are subject to various restrictions. In addition to the mandatory transportation requirements, the proposed legislation would facilitate transactions between the interstate and intrastate markets.

With the agreement of your office, we limited our review of the potential impact of implementation of the mandatory transportation requirements of the proposed legislation to section 317(a). This section would provide that, upon application by a producer or a purchaser, FERC shall order an interstate pipeline to transport gas on behalf of the producer and purchaser, under such terms and conditions as FERC determines to be just and reasonable. This section is intended to open the natural gas market 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, FERC could find that the transportation would impair service to the pipeline's customers and thus limit or disallow the application. Finally, FERC is given the option to implement this section either by rule or order.

POTENTIAL IMPACT OF PROPOSED CHANGE

At the time of our review, FERC had not prepared an overall assessment of the potential impact on its operations of implementing section 317(a) but was in the process of making such an evaluation. Our analysis and discussions with a FERC official indicated that the principal difference between the transportation authority provided FERC under section 317(a) and that provided under current legislation, as discussed earlier, is that section 317(a) states that FERC can order transportation, whereas currently FERC can only authorize requested transportation under various circumstances.

Several elements of section 317(a) could affect FERC's workload. We cannot accurately quantify this impact because of uncertainties about how many gas producers and purchasers will apply for gas transportation under this provision. The number of applications that may be filed is the most critical factor in determining the impact of this provision on FERC's workload. The potential workload is enormous because there are thousands of potential applicants, including about 8,500 producers, 1,500 distributors, 190,000 industrial users, and 340 electric utilities that use natural gas. FERC assumes that the introduction of more purchasers into the market will generate considerable filings.

We attempted to compare the potential application workload under section 317(a) with the current workload under FERC's direct sale transportation authority contained in sections 311 and 312 of NGPA. However, FERC officials told us that the two authorities were not comparable, primarily because FERC sees the pipelines in a potentially adversarial role when ordered by FERC to transport natural gas under section 317(a). In contrast, under NGPA, the parties to the gas transportation had already reached agreement prior to requesting authority for the transportation from FERC.

FERC officials expect to experience a heavy workload under section 317(a). It requires FERC to order any interstate pipeline to carry gas between the producer and purchaser if FERC finds that:

1. Such pipeline has available capacity.

2. No undue burden will be placed upon such pipeline.

3. No construction of new facilities would be required.

4. Such order would not impair the ability of such pipeline to render adequate service to its existing customers.

FERC officials believe that these determinations will be complex and burdensome, and that cooperation from the pipelines will be essential to make timely determinations. To make such determinations, FERC will have to require pipelines to submit the information necessary to answer the critical questions relating to capacity, undue burden, ability to continue adequate services to existing customers, etc. In this connection, FERC officials also believe that FERC needs to increase its capability to evaluate pipelines' capacity to transport natural gas. They told us that FERC currently has only limited capability to make this determination. In addition, computer capability is essential to this work, and FERC staff has only limited computer capability. Moreover, extensive data will be required from the pipelines to develop this capability.

To make a capacity determination, FERC would have to determine the flows of natural gas through the pipeline segments to be used to transport the gas. In this connection, a pipeline might have unused system capacity but have little or no unused capacity on the particular segments involved. In addition, while certain segments of a pipeline might have unused capacity on a year-round basis, these segments could feed into other segments that do not have unused capacity.

In addition to the need for technical staff, FERC officials told us that they will need more legal staff to effectively implement section 317(a). With further regard to staffing needs, the same staffing options discussed on page 8 in enclosure II relating to section 603(b) would also apply to the workload generated by section 317(a).

POTENTIAL ADMINISTRATIVE IMPACT ON

EIA OF IMPLEMENTING S. 615

BACKGROUND

EIA has primary responsibility for collecting, analyzing, and disseminating energy data required by the Federal Government. In carrying out this responsibility, EIA collects both statistical data needed for policymaking purposes and regulatory data needed by FERC. For example, EIA's Oil and Gas Information System provides a broad range of statistical data needed to understand the Nation's oil and gas resources and the factors affecting their conversion to supply. Likewise, EIA operates data systems on behalf of FERC pursuant to NGPA. Currently, each month these systems provide incremental pricing information obtained from monitoring prices of regional fuel oil supplies, maintain information on applications for determining the maximum lawful price under NGPA, and maintain a data base of the PGA filings for 20 selected interstate pipelines. For fiscal year 1983, the Congress appropriated $6 million to EIA to perform regulatory data requirements for FERC.

PROPOSED CHANGES

The proposed legislation, if enacted, would require numerous data collection and publication requirements. FERC has not yet identified its potential total data needs under S. 615, but through our analysis of the legislation and discussions with EIA, we identified the major data requirements that EIA could be requested to perform for FERC. Under section 101 of the bill, which adds section 603 to NGPA, EIA could be required to collect, calculate, or publish data related to the following requirements of S. 615:

--Establish allowed rates for purchased gas costs. (Section 603(a).)

--Calculate the national average cost per million Btu's for purchased gas delivered to all interstate pipelines during the month preceding enactment of the bill. (Section 603(c).)

--Calculate, for the month the bill is enacted, the national rate multiplied by the annual inflation adjustment factor for that month. For succeeding months, the adjusted national rate would be calculated by multiplying the adjusted national rate for the preceding month by the annual inflation for that month. (Section 603(c).)

--By the 5th day following enactment of the bill, collect information from each interstate pipeline on its average costs and volume of purchased gas delivered to it during the month preceding enactment of the bill. (Section 603(d).)

--Publish the rate adjustment amount 5 days before the beginning of each month. (Section 603(e).)

--Collect information needed to monitor the prices of gas purchased from affiliated producers. (Section 603(f).)

In addition, under section 201(b) EIA could be required to collect data needed to ensure that the price of high-cost gas does not exceed the higher of the contract price at the date of the enactment of the bill or the gas cap price for the month during which gas is delivered. Further, Section 201(c)(2) requires that data be collected to ensure that, for 1985, the price of gas shall not exceed the gas cap price for the month during which gas is delivered.

Section 111 of S. 615 also contains a number of data requirements. Section 111(a) requires the continued calculation of NGPA gas prices except for high-cost section 107(c)(5) gas under NGPA. These calculations are made to determine the applicable price for any first sale of gas. Sections 111(c) and (d) also require the calculation and publication of the gas cap price. Finally, section 111(e) requires that, within 5 days of amended or newly executed contracts, information be collected on summary contract data.

POTENTIAL IMPACT ON EIA's WORKLOAD

While S. 615 has many provisions that would require data gathering and analysis, EIA is not specifically mentioned in the proposed legislation. FERC officials told us that the agency has not decided whether to request EIA's assistance in meeting these requirements. However, FERC and EIA officials have met to discuss the S. 615 requirement to gather data, make calculations, and prepare publications related to the ceiling price of natural gas. In addition, FERC officials told us that the agency might request EIA to gather, calculate, and publish data in connection with other provisions of S. 615. These officials said that FERC would decide whether to request such services after it has determined its total data gathering and analysis requirements under the proposed legislation.

We discussed the possible impact of S. 615 on EIA operations with the Directors of EIA's Office of Oil and Gas and its

Reserves and Natural Gas Division. These officials told us that to collect, calculate, and publish data on the gas cap, EIA could shift staff resources from work now being performed to meet NGPA's incremental pricing requirements, which would be eliminated by S. 615. To meet these pricing requirements, each month EIA collects, calculates, and publishes alternative fuel price ceilings based on the regional levels of fuel oil. These officials also stated that 1.5 staff years are currently needed to perform these requirements.

Although EIA has not estimated the resources needed to meet its potential responsibilities in connection with the gas cap provision of S. 615, the Director of the Office of Oil and Gas said that the level of effort would include some startup effort which could exceed the 1.5 staff years now being devoted to the incremental pricing data requirements. Further, EIA has identified substantial other data requirements of S. 615 discussed on page 14. While EIA expects little inpact, it plans to complete its preliminary analysis in late April 1983. However, it will not complete its final analysis until FERC specifies its data needs and requests EIA's assistance in meeting them. The Director of EIA's Office of Oil and Gas told us, however, that in the event FERC places requirements on EIA beyond those indicated for the gas cap calculation and publication, it is possible that additional resources would be required.

In addition to the impact of S. 615 on EIA's regulatory data requirements, the eventual decontrol of natural gas prices--whether under NGPA or under S. 615--could substantially increase EIA's efforts to obtain natural gas data for statistical reporting requirements because much of EIA's current statistical data is obtained from data collected for regulatory purposes. In this connection, EIA has awarded a $200,000 contract to the National Academy of Sciences to study natural gas data needs and recommend improvements and changes in EIA's programs.