
SECTION II - GAS

- * Opposition to FERC's Short Supply Rule - Adopted November 10, 1980 in Houston, TX.
- * Authorizing Actions in Opposition to Immediate Deregulation of Natural Gas - Adopted November 17, 1981 in San Francisco, CA.
- * Deregulated gas contracts to assure that the consuming public is not burdened unnecessarily by the deregulation effort - Adopted November 17, 1981 in San Francisco, CA.
- * Affirming the NASUCA's opposition to accelerated decontrol of natural gas and to affirm support for the wellhead pricing principals in the Natural Gas Consumers Relief Act, and similar measures which would amend the Natural Gas Policy Act (NGPA) of 1978 with respect to wellhead prices of natural gas - Adopted November 16, 1983 in Detroit, MI.
- * Affirming NASUCA's support for mandatory contract carriage of natural gas where all consumers are provided equal access to competitively priced natural gas - Adopted November 16, 1983 in Detroit, MI.
- * Affirming NASUCA's support for mandatory contract carriage by interstate natural gas pipeline companies of natural gas owned by others, particularly that natural gas owned by local distribution companies - Adopted November 28, 1984 in Los Angeles, CA.
- * Affirming the NASUCA support of FERC Order 436, requiring the non-discriminatory transportation of natural gas, and urging FERC to 1) include in its rules the requirements for the block billing of natural gas; 2) to eliminate provisions which would allow pipeline companies to serve local distribution company end users; and 3) to reject any attempts to circumvent the policies set forth in Order 436, particularly with respect to authority required pursuant to Section 7(c) of the Natural Gas Act to provide selective natural gas transportation service on a best efforts basis to large industrial customers -Adopted November 18, 1985 in New York, NY.
- * Opposing U.S. Department of Energy Attempts to Decontrol Old Gas Prices - Adopted May 31, 1986 in Savannah, GA.
- * Opposing State Regulatory Actions Which Allow Local Natural Gas Distribution Utilities to Direct Low-Cost Sales Gas to Industrial Customers - Adopted November 15, 1986 in Sedona, AZ. (1986-3)

- * Urging the Federal Energy Regulatory Commission to Expediently Resolve Pending Settlement Agreements Affecting Open Access Transportation - Adopted November 15, 1986 in Sedona, AZ. **(1986-4)**
- * Urging the Federal Energy Regulatory Commission to Amend Its Proposed Statement of Policy Concerning the Recovery of Take-or-Pay Costs - Adopted June 18, 1987 in Washington, D.C. **(1987-3)**
- * Urging the Reappointment of Charles G. Stalon to the Federal Energy Regulatory Commission - Adopted September 4, 1987 by telephone vote pursuant to Article VII, Section 8 of the NASUCA Constitution. **(1987-7)**
- * Calling for the Staff of the Federal Energy Regulatory Commission to investigate and litigate issues of imprudent practices by Natural Gas pipelines - Adopted October 31, 1988 in San Francisco, CA. **(1988-8)**
- * Urging the State Regulatory Commissions to recognize that take-or-pay costs are not costs of gas for which captive consumers should pay - Adopted October 31, 1988 in San Francisco, CA. **(1988-9)**
- * Urging the Federal Energy Regulatory Commission to Facilitate the resolution of local distribution company bypass at the state or local regulatory levels - Adopted October 31, 1988 in San Francisco, CA. **(1988-10)**
- * Opposing, as written, H.R. 1595 and S. 625, to decontrol remaining natural gas wellhead prices - Adopted April 6, 1989 in Washington, D.C. **(1989-1)**
- * Urging the Congress of the United States to Enact A "Regulatory Fairness Act" for Natural Gas - Adopted June 15, 1989 in Columbus, OH. **(1989-2)**
- * Urging the Federal Energy Regulatory Commission to Prohibit Direct Ratepayer Funding of Gas Research Institute End-Use Projects Where There is No Showing of Direct Ratepayer Benefit - Adopted November 12, 1989 in Boston, Massachusetts. **(1989-13)**
- * Resolving that the Federal Energy Regulatory Commission in the Final Version of Order No. 500 should Clarify that Local Distribution Companies are Explicitly included if "Equitable Sharing" of Take-or-Pay is Retained - Adopted November 14, 1989 in Boston, Massachusetts. **(1989-20)**
- * Resolving that the Federal Energy Regulatory Commission Should Return to the Legal and Equitable Principles of the Natural Gas Act and Rely on Evidence of Actual Cost in its Rate Design Decisions - Adopted November 14, 1989 in Boston, Massachusetts. **(1989-21)**

- * Urging the Department of Energy To Emphasize True Energy Efficiency in Formulating a National Energy Strategy - Adopted June 15, 1990 in Sante Fe, New Mexico. **(1990-4)**
- * Affirming NASUCA's support for Federal Energy Regulatory Commission policies which require interstate pipelines to provide to local distribution companies who have historically been firm sales customers access to upstream pipeline firm transportation capacity rights and access to contract storage capacity rights - Adopted June 15, 1990 in Sante Fe, New Mexico. **(1990-5)**
- * Urging the Congress to Reject Pending Proposals to Amend the Public Utility Holding Company Act of 1935 for Natural Gas Holding Companies and to Consider a Narrower Amendment - Adopted August 28, 1990 by mailed ballot vote pursuant to Article VII, Section 8, of the Bylaws. **(1990-7)**
- * Opposing the Federal Energy Regulatory Commission's (FERC) Policies Allowing Waiver of Section 154.305(b)(1) of the Commission's Regulations and Allowing Flow Through in Pipeline PGA's of Producer Demand Charges on an As-Billed Basis - Adopted November 13, 1990 in Orlando, FL. **(1990-13)**
- * Urging the Federal Energy Regulatory Commission (FERC) to Reverse its Position that Interstate Pipeline Companies are Entitled to Have Pre-Granted Authority to Abandon Firm Transportation Services Upon the Expiration of a Contract for that Service - Adopted November 13, 1990 in Orlando, FL. **(1990-14)**
- * Endorsing The Concept of Integrated Least-Cost Planning For An LDC - Adopted May 21, 1991 in Seattle, WA. **(1991-8)**
- * Urging that the Congress Adopt Proposed Changes to the Natural Gas Act Which Would Require Deadlines for Final Action By the FERC Regarding Unopposed Proposed Settlements, Applications for Rehearing, Decisions on Remand and the Avoidance of Unreasonable Delays in the Issuance of Initial Decisions - Adopted May 21, 1991 in Seattle, WA. **(1991-9)**
- * Urging that the Federal Energy Regulatory Commission Reject Proposals to Empower Interstate Pipeline Companies With The Pregranted Authority to Abandon Sales Services Upon the Expiration of A Contract For That Service - Adopted May 21, 1991 in Seattle, WA. **(1991-10)**

- * Opposing Legislation Abolishing the Federal Energy Regulatory Commission And Transferring its Duties to an Administrator Reporting to the Secretary of Energy and Affirming the Need for Continued Regulation of Interstate Pipelines and the Periodic Review of the Rates of Interstate Pipelines - Adopted May 21, 1991 in Seattle, WA. **(1991-11)**
- * Urging the Federal Energy Regulatory Commission To Incorporate NASUCA Concerns Regarding Consumer Needs In Its Rule On Pipeline Service Obligations and Comparability In Docket No. RM91-11 - Adopted September 30, 1991 by mailed ballot vote pursuant to Article VII, Section 8, of the Bylaws. **(1991-15)**
- * Opposing Ratepayer Funding of Natural Gas Vehicles and Reaffirming Position On GRI Funding - Adopted November 13, 1991 in San Antonio, Texas. **(1991-20)**
- * Opposing Congressional Proposals That Would Remove All FERC Authority To consider The Public Convenience And Necessity In Issuing Certain Certificates To Construct And Operate Natural Gas Facilities - Adopted November 13, 1991 in San Antonio, Texas. **(1991-21)**
- * Urging the Federal Energy Regulatory Commission and the Congress Not to Guarantee Full Recovery of Pipeline Costs Resulting from Service Restructuring - Adopted June 10, 1992 in Washington, D.C. **(1992-05)**
- * Calling for the Federal Energy Regulatory Commission to Release the Results of Any Economic Impact Analysis It Has Undertaken with Respect to Order No. 636 and with Respect to the Notice of Proposed Policy Statement on Incentive Regulation, and to Further Undertake and Release an Analysis of the Economic Impacts of Order No. 636 and Incentive Regulation on Small Entities - Adopted June 10, 1992 in Washington, D.C. **(1992-06)**
- * Recommending Against Adoption by the Federal Energy Regulatory Commission of an Incentive Regulation Policy Statement, and Recommending Necessary Consumer Safeguards in the Event the Policy Statement is Adopted - Adopted June 10, 1992 in Washington, D.C. **(1992-07)**
- * Opposing Unnecessary Government Restrictions on Natural Gas Production - Adopted June 10, 1992 in Washington, D.C. **(1992-09)**
- * Recognizing the Jurisdiction of State and Local Regulatory Commissions Over Local Distribution Company Recovery of Pipeline Transition Costs and That Order No. 636 Related Transition Costs Are Not Cost of Gas - Adopted November 16, 1992 in Los Angeles, California. **(1992-15)**

- * Urging the Federal Energy Regulatory Commission to Allow Local Distribution Companies and State Commissions Maximum Control in the Oversight of Capacity Release programs Under Order Nos. 636 and 636-A and to Minimize the Interstate Pipeline's Ability to Exercise Market Dominance in the Sale of Interruptible Capacity in Competition with Release Firm Capacity - Adopted November 16, 1992 in Los Angeles, California. **(1992-16)**
- * Calling Upon the Congress and the Administration to Ensure State and Local Regulatory Commissions Retain Authority to Determine Ratemaking Treatment of Energy-Related Taxes - Adopted April 20, 1993 by Mailed Ballot. **(1993-01)**
- * Opposing the FERC Orders Which Require Consumers to Reimburse Intrastate Pipelines for Above-Market Costs of Unreformed Gas Purchase Contracts, and Opposing Recovery of Transition Costs Prior to Prudence Reviews - Adopted June 8, 1993 in St. Louis, Missouri. **(1993-07)**
- * Urging the Federal Energy Regulatory Commission to Extend the Revenue Sharing Mechanism for Interruptible Transportation Sales to Short Term Firm Transportation Transactions - Adopted November 15, 1993 in New York, New York. **(1993-11)**
- * Urging the Federal Energy Regulatory Commission to Reject Interstate Pipeline Efforts to Write Down the Value of Investment in Uneconomical Facilities and Attempts to Treat Such Costs as Eligible for Recovery as Stranded Investment Under Order No. 636 - Adopted November 15, 1993 in New York, New York. **(1993-12)**
- * Opposing the Imposition of Royalty Fees on Pipeline Payments for Take-or-Pay Buyouts and Contract Renegotiation - Adopted November 15, 1993 in New York, New York. **(1993-13)**
- * Opposing the Formation of a Gas Industry Standards Board ("GISB") That Would Require Mandatory Participation, Extend Beyond a Two Year Period, or Involve a Broader Scope of Issues than Electronic Data Interchange - Adopted June 21, 1994 in Santa Fe, New Mexico. **(1994-04)**
- * Regarding the Duty to Mitigate Costs to Local Distribution Companies Firm Sales Customers through the Use of FERC Order 636's Capacity to Release Mechanism. - Adopted November 15, 1994 in Reno, Nevada. **(1994-07)**

- * Calling Upon the Federal Energy Regulatory Commission to Retain Its Policy of Incremental Pricing for Incremental Capacity Expansion Projects and to Investigate Solutions Other Than Rolled-In Pricing for the Problem of Pricing Released Incremental Capacity, Including, but Not Limited to, Elimination of Price Caps in the Secondary Capacity Market. - Adopted on November 15, 1994 in Reno, Nevada. **(1994-08)**
- * Urging the Federal Energy Regulatory Commission to Prohibit Negotiated/Recourse Rates in Non-Competitive Markets or If Negotiated/Recourse Rates Are Allowed, to Protect Consumers by Prohibiting Cross-Subsidies, Allowing Ease of Market Exit and Limiting Negotiations to Rate Terms. - Adopted May 29, 1996, by Faxed Ballot. **(1996-01)**
- * Urging State Authorities to Take Steps to Prevent Unfair and Deceptive Acts or Practices by Local Distribution Companies, Their Affiliates, Their Subsidiaries, and Marketers or Brokers of Gas Services in the Emerging Competitive Gas Market - Adopted June 25, 1996 in Chicago, Illinois. **(1996-05)**
- * Urging the Federal Energy Regulatory Commission To Reject Any Proposed Funding Proposals For The Gas Research Institute Which Do Not Equitably Spread GRI's Funding Costs Across All Industry Segments And/Or Which Inhibit The Competitive Market Goals In Order No. 636 - Adopted May 14, 1997 by Faxed Ballot. **(1997-01)**
- * Urging the Federal Energy Regulatory Commission to Promulgate Rules to Address the Ratemaking Treatment of Pipeline Discounts to Meet Gas-On-Gas Competition - Adopted June 10, 1998 in Seattle, Washington. **(1998-01)**
- * Urging the Federal Energy Regulatory Commission To Incorporate NASUCA Concerns Regarding Consumer Needs In Its Rulemakings on Short-Term and Long-Term Transportation Services, Docket Nos. RM98-10 and RM98-12 - Adopted November 11, 1998 in Orlando, Florida. **(1998-10)**
- * Urging the Federal Energy Regulatory Commission To Allow States To Retain Maximum Flexibility For Regulating Local Distribution Companies In Its Rulemakings on Short-Term and Long-Term Transportation Services, Docket Nos. RM98-10 and RM98-12 - Adopted November 11, 1998 in Orlando, Florida. **(1998-11)**

(11/23/98)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTIONOPPOSITION TO FERC'S SHORT SUPPLY RULE

WHEREAS, Section 46(f) of the Internal Revenue Code of 1954 provides a credit, commonly referred to as the Job Development Investment Tax Credit, against federal income taxes payable for investment in certain depreciable property.

WHEREAS, Section 46(f)(1) of the Internal Revenue Code of 1954 states that no ITC will be allowed for any public utility property if the utility's cost of service or rate base is reduced by any portion of the ITC, except that rate base may be reduced provided that the reduction in rate base is "restored not less rapidly than ratably."

WHEREAS, Section 46(f)(1) further states that rate base may not be reduced at all if any agency or instrumentality of the United States having jurisdiction for rate making purposes determines that the "natural domestic supply of the product or business is insufficient to meet the present and future requirements of the domestic economy" (Short Supply Rule).

WHEREAS, the Federal Energy Regulatory Commission (FERC) made a determination in 1972 that the natural domestic gas supply was insufficient to meet the present and future requirements of the domestic economy (Federal Register, February, 1972).

WHEREAS, this determination by FERC affords those qualifying utilities to retain all the immediate benefits of ITC and likewise it deprives the utilities' consumers from realizing any of the immediate benefits.

WHEREAS, it is extremely ironic, as well as extremely unjust, that the gas industry should profit from FERC's determination that gas is in short supply, when at the same time the industry is informing everyone that gas is a plentiful resource and is aggressively seeking new gas hook-ups in most areas.

WHEREAS, action should be taken to determine whether the ruling of FERC that gas is in short supply for the purposes of its determination under Section 46(f)(1) of the Internal Revenue Code of 1954 should be reconsidered, and, if so, whether consumers will obtain some of the benefits associated with ITC.

THEREFORE, BE IT RESOLVED THAT NASUCA seeks FERC to re-examine its determination that the natural domestic gas supply is "insufficient to meet the present and future requirements of the domestic economy".

BE IT FURTHER RESOLVED THAT NASUCA take immediate action on a Federal level to encourage the examination of this determination, and if it is incorrect, restore to consumers some of the benefits associated with ITC.

BE IT FURTHER RESOLVED THAT NASUCA authorizes its Executive Committee to develop specific positions consistent with the terms of this Resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this Resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Submitted by:

Houston, Texas
Place

November 10, 1980
Date

WILLIAM A. SPRATLEY
Consumer Counsel
Ohio Office of Consumer Counsel
137 East State Street
Columbus, Ohio 43215
(614) 466-7239

Reported out by Resolutions Committee

Date:

Favorably _____ Not Favorably _____

COMMITTEE MEMBER

COMMITTEE MEMBER

COMMITTEE MEMBER

RESOLUTION
OF THE
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

AUTHORIZING ACTIONS IN OPPOSITION TO IMMEDIATE
DEREGULATION OF NATURAL GAS

- WHEREAS, it is widely reported that the Administration of President Ronald Reagan may propose the immediate and total deregulation of interstate sales of natural gas to the Congress of the United States;
- WHEREAS, the Natural Gas Policy Act of 1978 (NGPA) provides for the gradual deregulation of natural gas in a manner intended to ease the burden on residential customers of such a transition;
- WHEREAS, the Federal Energy Regulatory Commission has discretion under the NGPA to allow more rapid increases in prices for certain categories of natural gas;
- WHEREAS, contracts now being signed for gas from wells already deregulated under the NGPA include provisions in some instances for 90% take-or-pay at a price of 110% of number 2 fuel oil and have already reached a current price as high as \$7.24 per MMBTU;
- WHEREAS, the American Gas Association has calculated that residential natural gas bills would double in the next year if the wellhead price of natural gas were deregulated in the fall of 1981;
- WHEREAS, experts have predicted that the oil and gas industry would receive a \$10 billion windfall during 1981 alone under immediate deregulations;
- WHEREAS, the Energy Action Foundation has identified the cost to industrial users of natural gas nationwide as an additional \$237 billion during the next five years under immediate deregulation;
- WHEREAS, a U. S. Department of Energy analysis has estimated that the overall inflation rate would increase 2.4% and the unemployment rate would increase .7% during the first full year of complete deregulation;
- WHEREAS, costs to agriculture for fertilizer and grain drying are directly related to the cost of natural gas;
- WHEREAS, the U. S. Department of Commerce has stated that the cost of natural gas for ammonia feedstock has risen 250% in the past six years;
- WHEREAS, increases in natural gas prices will lead to fuel switching by industries with a resulting increased dependence on imported oil;
- WHEREAS, increased costs for natural gas will result in less investment capital available to the nation's industries and thus bring about declining employment;

WHEREAS, gas production will not be improved by immediate deregulation, because of the declines in use that would result;

THEREFORE BE IT RESOLVED that the National Association of State Utility Consumer Advocates recommends that the Congress not deregulate natural gas any more rapidly than the National Gas Policy Act (NGPA) provides and furthermore that natural gas not be administratively decontrolled by the Federal Energy Regulatory Commission, in order to avert the onerous impact upon residential consumers which will result from accelerated deregulation.

BE IT FURTHER RESOLVED THAT NASUCA authorizes its Executive Committee to develop specific positions consistent with the terms of this Resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this Resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA

Submitted by:

San Francisco, California
Place

William A. Spratley
Consumers' Counsel
Ohio Office of the Consumers' Counsel
137 East State Street
Columbus, Ohio 43215
(614) 466-7239

November 17, 1981
Date

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

DEREGULATED GAS CONTRACTS

WHEREAS, the deregulation of natural gas supplies is a matter of significant economic consequence to consumers; and

WHEREAS, every reasonable effort should be taken by responsible public officials to assure that the consuming public is not burdened unnecessarily by the deregulation effort; and

WHEREAS, the terms of new production supply contracts for deregulated natural gas supplies will determine the future price of natural gas to consumers; and

WHEREAS, public scrutiny of the terms and conditions of such contracts, and the prudence and propriety thereof, can provide assurance that deregulated natural gas supplies are priced reasonably and fairly.

WHEREAS, the Federal Energy Regulatory Commission is the appropriate public agency to inquire into the terms and conditions of such contracts.

NOW THEREFORE BE IT RESOLVED that the NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES (NASUCA) urges an investigation by the Federal Energy Regulatory Commission into the terms of production supply contracts for deregulated natural gas supplies; and

BE IT FURTHER RESOLVED THAT NASUCA authorizes its Executive Committee to develop specific positions consistent with the terms of this Resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this Resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Submitted by:

San Francisco, California
Place

Victor Baird
Consumers Utility Counsel
of Georgia

November 17, 1981
Date

4
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Affirming the NASUCA's opposition to accelerated decontrol of natural gas and to affirm support for the wellhead pricing principles in the Natural Gas Consumers Relief Act, and similar measures which would amend the Natural Gas Policy Act (NGPA) of 1978 with respect to wellhead prices of natural gas.

- WHEREAS, H.R. 2154, the Natural Gas Consumer Relief Act, sponsored by Congressman Richard Gephardt, and many other Congressmen, has been identified as major consumer legislation on gas pricing with the momentum and support of labor, consumer, senior, and farm groups;
- WHEREAS, NASUCA supports legislation which would roll back current price ceilings to 1982 levels and would extend the NGPA deregulation dates for new gas by two years;
- WHEREAS, natural gas consumers would benefit from legislation which limits take-or-pay obligations to 50 percent of the maximum annual contract obligation;
- WHEREAS, it is essential to eliminate price escalator clauses in natural gas producer contracts and provide for renegotiation of prices which make gas unmarketable by a pipeline;
- WHEREAS, NASUCA supports removing the authority of the Federal Energy Regulatory Commission to raise the prices of price-controlled gas by administrative action;
- WHEREAS, deregulated prices for 'deep gas' and other high-cost incentive gas prices contribute to the increasing unmarketability of natural gas;
- WHEREAS, the Natural Gas Consumer Relief Act parallels NASUCA positions concerning wellhead prices of natural gas;
- THEREFORE BE IT RESOLVED THAT NASUCA strongly supports the passage of legislation by the U.S. Congress which accomplishes the foregoing goals.

RESOLUTION

(Affirming the NASUCA's opposition to accelerated decontrol of natural gas and to affirm support for the Natural Gas Consumers Relief Act, and similar measures which would amend the Natural Gas Policy Act (NGPA) of 1978 to limit natural gas prices and to improve natural gas pricing and marketing practices)

PAGE TWO

BE IT FURTHER RESOLVED THAT the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of the Resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this Resolution including the preparation of a policy paper reflecting NASUCA's position which shall be filed with the United States Congress. The Executive Committee shall advise the membership of any other proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Submitted by:

Detroit, Michigan
Place

Resolution Committee

Name
Address
Phone

November 16, 1983
Date

Reported out by Resolution Committee
Date: November 15, 1983

Favorable X **Not Favorably**

John K. Keane, Jr.
COMMITTEE MEMBER

William A. Spratley
COMMITTEE MEMBER

Daniel Clearfield
COMMITTEE MEMBER

#5
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Affirming NASUCA's support for mandatory contract carriage of natural gas where all consumers are provided equal access to competitively priced natural gas.

- WHEREAS, all legislative proposals regarding wellhead prices for natural gas call for the eventual decontrol of wellhead prices;
- WHEREAS, decontrol of wellhead prices, the supply side of the gas market, can result in a workably competitive market, if and only if, structural changes are made that permit the demand side of the market to function freely;
- WHEREAS, the pipeline companies now use "voluntary carriage" to impose two-tiered pricing under which certain large industrial customers with the ability to switch to fuel oil can use carriage to obtain competitive prices for gas at the wellhead while local distribution companies are refused carriage, fenced out of the market, and forced to pay higher prices to the pipeline;
- WHEREAS, residential and commercial customers will derive permanent protections only if the cause of market disorders - the pipelines' unwarranted monopoly control over purchasing decisions - is addressed;
- WHEREAS, mandatory contract carriage by the pipelines of gas owned by others is essential in order to dilute the unwarranted monopoly control exercised by the pipelines over purchases of gas, and in order to permit the demand side of the gas market to function freely;
- WHEREAS, pipelines must be prohibited from discriminating against local distribution companies in the provision of monopoly transportation and storage services;
- WHEREAS, mandatory contract carriage, which is equally available to LDCs as well as end users, will establish an expectation that LDCs will not rely primarily upon pipelines for their gas supply but will seek out the lowest cost gas available from direct purchases from producers;
- WHEREAS, small local distribution companies and municipal gas distributors must be permitted to form buying cooperatives to enable them to buy commercially practical quantities;
- WHEREAS, the local distribution companies' existing need for pipeline capacity must be respected, not taken away;
- WHEREAS, to protect consumers, legislation must clarify and preserve the states' historic role in regulating retail rates of LDCs by making clear the authority of state regulatory agencies to review natural gas purchase costs of the LDCs.

RESOLUTION

(Affirming NASUCA's support for mandatory contract carriage of natural gas where all consumers are provided equal access to competitively priced natural gas)

PAGE TWO

- WHEREAS,** carriage must not result in pipelines, LDCs, or the LDC's sales customers being unfairly burdened with additional take or pay payments to producers that result from pipeline load lost to carriage customers;
- WHEREAS,** the states must have the authority to prevent the uneconomic bypass of existing facilities of LDCs;
- WHEREAS,** carriage must not result in LDCs being saddled with additional charges under "minimum commodity" and "demand charge" provisions of tariffs and contracts;
- WHEREAS,** the historic role of the states in regulating the siting and utilization of distribution facilities of LDCs and the rates and charges for use of those facilities must not be interfered with by intrusive federal regulation;
- WHEREAS,** in establishing retail rates and tariffs for the use of LDC facilities for transportation of natural gas, the state regulatory authority should, as completely as practicable, provide for the recovery of all non-gas costs of providing firm service to transportation customers;
- WHEREAS,** carriage must not change the basis for allocating gas during shortages from the current basis - protection of the health, safety and welfare;
- WHEREAS,** each of the enumerated concerns finds expression in the contract carriage provisions of S.1715 as amended in November, 1983 by Senator Bill Bradley; and many of them find expression in the House of Representatives committee print (the Dingell-Sharp Bill);
- THEREFORE BE IT RESOLVED THAT NASUCA strongly supports the passage of legislation by Congress which accomplishes the mandatory contract carriage of natural gas by pipelines of gas owned by others where residential and commercial customers are provided, through LDCs and municipal distributors, equal access to competitively priced gas, and**
- BE IT FURTHER RESOLVED that NASUCA strongly supports the contract carriage provisions of S.1715 as amended in November 1983; and**
- BE IT FURTHER RESOLVED that NASUCA will express its goals to, and cooperate with, the House leadership to the end that the foregoing goals are enacted into law.**

RESOLUTION

(Affirming NASUCA's support for mandatory contract carriage of natural gas where all consumers are provided equal access to competitively priced natural gas)

PAGE THREE

BE IT FURTHER RESOLVED THAT the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of the Resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this Resolution including the preparation of a policy paper reflecting NASUCA's position which shall be filed with the United States Congress. The Executive Committee shall advise the membership of any other proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Detroit, Michigan

Place

November 16, 1983

Date

Submitted by:

**Resolutions Committee
and Committee on Natural
Gas Legislation**

Name

Address

Phone

Reported out by Resolution Committee

Date: November 15, 1983

Favorable X Not Favorably

John K. Keane, Jr.

COMMITTEE MEMBER

William A. Spratlev

COMMITTEE MEMBER

Daniel Clearfield

COMMITTEE MEMBER

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Affirming NASUCA's support for mandatory contract carriage by interstate natural gas pipeline companies of natural gas owned by others, particularly that natural gas owned by local distribution companies.

WHEREAS, all legislative proposals considered in previous Congressional sessions regarding wellhead prices for natural gas called for the eventual decontrol of wellhead prices;

WHEREAS, about half of the nation's natural gas supply is scheduled to be decontrolled on January 1, 1985;

WHEREAS, decontrol of wellhead prices, the supply side of the gas market, can result in a workable competitive market, if and only if, structural changes are made that permit the demand side of the market to function freely;

WHEREAS, the pipeline companies now use "voluntary carriage" to impose two-tiered pricing under which certain large industrial customer with the ability to switch to fuel oil can use carriage to obtain competitive prices for gas at the wellhead while local distribution companies are refused carriage, fenced out of the market, and forced to pay higher prices to the pipeline.

WHEREAS, residential, commercial and non-favored industrial consumers should also have access to competitively priced natural gas supplies and such consumers could benefit most where they and local distribution companies can on a non-discriminatory basis obtain transportation and storage service for natural gas supplies owned by them or by local distribution companies.

WHEREAS, pipelines must be prohibited from discriminating against local distribution companies in the provision of monopoly transportation and storage services;

WHEREAS, small local distribution companies and municipal gas distributors must be permitted to form buying cooperatives to enable them to buy commercially practical quantities;

RESOLUTION

(Affirming NASUCA's support for beneficial contract carriage of natural gas where local gas distribution companies have priority in obtaining transportation for cheaper gas)

PAGE TWO

WHEREAS, existing needs of local distribution companies for pipeline capacity should be given priority over claims for pipeline capacity, and pipeline capacity should be subject to priority allocation in the event of capacity shortages.

WHEREAS, if transportation rates are just and reasonable, pipelines and distribution companies alike should be indifferent to whether they sell or transport.

WHEREAS, carriage must not result in LDC's being saddled with charges under "minimum commodity" and "demand charge" provisions of tariffs and contracts, nor in pipelines being saddled with prepayments otherwise resultant from the displacement of sales gas by transportation gas.

WHEREAS, the historic role of the states in regulating the siting and utilization of distribution facilities of LDCs and the rates and charges for use of those facilities must not be interfered with by intrusive federal regulation;

WHEREAS, carriage should not change the basis for allocating gas during shortages from the current basis -- protection of the health, safety and welfare;

THEREFORE BE IT RESOLVED THAT NASUCA supports the passage of legislation by the 99th United States Congress which accomplishes the beneficial contract carriage of natural gas where local distribution companies have priority in obtaining transportation for cheaper gas; and ,

BE IT FURTHER RESOLVED THAT the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of the resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this Resolution including the preparation of

RESOLUTION
(Affirming NASUCA's support for
beneficial contract carriage of
natural gas where local gas dis-
tribution companies have priority
in obtaining transportation for
cheaper gas)
PAGE THREE

policy papers and other communications reflecting
NASUCA's position to the United States Congress.
The Executive Committee shall advise the
membership of any other proposed action prior to
taking such action, if possible. In any event,
the Executive Committee shall notify the
membership of any action under this provision.

Approved by NASUCA:

Los Angeles, CA
Place

11-28-84
Date

Submitted by:

Resolutions Committee
Name
Address
Phone

Reported out by Resolution
Committee
Date: 11-13-84

Favorable X Not Favorable

William A. Spratley
COMMITTEE MEMBER

Denise Goulet
COMMITTEE MEMBER

Deppish Kirkland
COMMITTEE MEMBER

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Affirming the NASUCA support of FERC Order 436, requiring the non-discriminatory transportation of natural gas, and urging FERC to 1) include in its rules the requirements for the block billing of natural gas; 2) to eliminate provisions which would allow pipeline companies to serve local distribution company end users; and 3) to reject any attempts to circumvent the policies set forth in Order 436, particularly with respect to authority requested pursuant to Section 7(c) of the Natural Gas Act to provide selective natural gas transportation service on a best efforts basis to large industrial customers.

WHEREAS, the Federal Energy Regulatory Commission ("FERC"), in partial response to decisions of the United States Court of Appeals for the District of Columbia, Maryland Peoples Counsel v. FERC, 761 F. 2d 768 (D.C. Cir. 1985) (MPC I) and Maryland Peoples Counsel v. FERC, 761 F. 2d 780 (D.C. Cir. 1985) (MPC II) and MPC v. FERC, F. 2d (D.C. Cir. 1985) (MPC I), has promulgated a Final Rule establishing procedures for the non-discriminatory transportation of natural gas; and

WHEREAS, unlike the FERC's original Notice of Proposed Rulemaking (NOPR), its Final Rule did not contain provisions implementing the block billing of natural gas by pipeline companies but instead, altered the proposal and asked for further comments; and

WHEREAS, FERC's block billing plan as originally proposed, would require pipeline companies to charge its firm jurisdictional customers the average price for its "old", price regulated gas and charge interruptible or new customers at the average cost of its "new" price deregulated gas; and

WHEREAS, block billing, as originally proposed, would remove the artificial advantage of pipeline companies with access to old gas supplies in the competitive market and ensure that the consumers on whose behalf the old gas was drilled will receive its benefits, consistent with Congressional intent in enacting the NCPA; and

RESOLUTION (1985-C)
PAGE TWO

- WHEREAS, FERC's Final Rule contains provisions which would allow pipelines to obtain certificates permitting direct connection to large industrial customers presently served by Local Distribution Companies (LDC's); and
- WHEREAS, such direct connections by pipelines to end users could threaten the viability of LDC's and, additionally, remaining "captive" customers to absorb additional fixed costs previously recovered from large industrial customers who have decided to bypass the LDC system;
- WHEREAS, applicants are seeking authority pursuant to Section 7(c) of the Natural Gas Act to provide natural gas transportation service on a best efforts basis to large industrial customers in an attempt to circumvent the mandate of the Court in the MPC cases that such programs are both discriminatory and anticompetitive, and may not be allowed to continue at the expense of residential consumers or 'captive customers'; and
- WHEREAS, the FERC has embraced similar sentiments in its Order 436, establishing a policy that pipelines should provide transportation services on a nondiscriminatory basis to assure that the benefits of competitively priced gas supplies and transmission services will be made available to the broadest number of consumers. The Commission recognized that permitting a pipeline to unduly discriminate or exclude certain consumers from transportation services is inconsistent with the fundamental goals of consumer protection and competition set forth in the NGA and NGPA; and
- WHEREAS, the FERC recognized that Section 7 certificates required a more detailed scrutiny and conditioning of the certificates and agreements which underlie the services to assure that consumers are fully protected against discriminatory or unreasonable practices associated with individual Section 7(c) applications; and

RESOLUTION (1985-C)
PAGE THREE

WHEREAS, block billing and non-discriminatory access to transportation services, taken together, will assure that all consumers benefit from competition and will assure that the price of natural gas properly reflects its costs;

THEREFORE BE IT RESOLVED THAT NASUCA urges FERC to implement the block billing proposal that it had originally proposed in its Notice Of Proposed Rulemaking and to reject other proposals which would not protect firm jurisdictional customers; and

BE IT FURTHER RESOLVED THAT NASUCA urges FERC to eliminate provisions in its gas transportation rules which would permit large industrial customers to bypass the LDC and purchase gas directly from pipeline companies; and

BE IT FURTHER RESOLVED THAT NASUCA urges the FERC to summarily dismiss or, in the alternative, set for hearing, all Section 7(c) applications for the transportation of natural gas which are discriminatory or which have the effect of being anticompetitive, on the basis that the authority requested is contrary to the Court's MPC decisions and to the FERC Order No. 436; and

BE IT FURTHER RESOLVED THAT the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of the resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject of this resolution including the preparation of policy papers and other communications reflecting NASUCA's position to the United States Congress. The Executive Committee shall advise the membership of any other proposed actions prior to taking this action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

RESOLUTION (1985-C)
PAGE FOUR

Approved by NASUCA:

Place

Date

Submitted by:

Resolutions Committee

Name
Address
Phone

Reported out by Resolution
Committee

Date: November 18, 1985

Favorable X Not Favorable

Dan Clearfield
COMMITTEE MEMBER

Donna Sorgi
COMMITTEE MEMBER

Bill Spratley
COMMITTEE MEMBER

Dep Kirkland
COMMITTEE MEMBER

RESOLUTION
OF THE
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

Opposing U.S. Department of Energy
Attempts to Decontrol Old Gas Prices

- WHEREAS, the United States Department of Energy (DOE) has proposed to the Federal Energy Regulatory Commission (FERC) a rulemaking to raise the prices for natural gas which Congress mandated remain price-controlled;
- WHEREAS, the FERC has voted to accept the DOE proposal;
- WHEREAS, all segments of the natural gas industry excepting producers, and including consumer advocates, pipelines and local distribution companies, have opposed the DOE proposal before the FERC as contrary to law and providing benefits only to producers;
- WHEREAS, the DOE proposal is not supported by data to confirm its assertions regarding costs and abandonment of old gas production; nor are its assertions of lower prices and increased production credible;
- WHEREAS, the FERC has before it a proposed rulemaking in Docket No. RM 85-1 which would institute block billing of price-controlled gas benefitting consumers and resulting in downward market pressure on high-cost gas without the undesirable effects of the DOE proposal;
- WHEREAS, the National Association of State Utility Consumer Advocates (NASUCA) has filed comments at the FERC opposing the DOE proposal;
- WHEREAS, the DOE is currently urging legislation in Congress to decontrol all natural gas prices;
- THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the FERC to reconsider and reverse its position, and to reject the DOE proposal in Docket Rm. 86-3 as unlawful and unsupported by substantial evidence and to institute block billing of gas from older, low-cost wells;
- BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) calls upon Congress to defeat legislation which raises the price of gas from existing wells above that permitted by the Natural Gas Policy Act; and,

RESOLUTION (U. S. Department of Energy
Attempts to Decontrol Old Gas
Prices)

PAGE TWO

BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) authorizes the Executive Committee to develop positions and take actions pursuant to the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions, prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Savannah, Georgia
Place

May 31, 1986
Date

Submitted by:

William A. Spratley
Name:
Address: 137 East State Street
Phone: (614) 466-8574

Reported out by Resolution Committee
Date:

Favorable _____ Not Favorably _____

COMMITTEE MEMBER

COMMITTEE MEMBER

COMMITTEE MEMBER

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Opposing State regulatory actions which allow local natural gas distribution utilities to direct low-cost sales gas to industrial customers

WHEREAS, the level of rates for natural gas charges by interstate pipelines and paid by consumers of the customer utilities of those pipelines remains higher than market clearing levels;

WHEREAS, the captive consumers are now largely residential and small commercial natural gas users without access to market-based spot gas supplies;

WHEREAS, large gas users have the market power to obtain their own supplies of natural gas and transportation services for delivery of that gas;

WHEREAS, local natural gas distribution utilities are seeking ways to discount gas rates to large industrial customers in order to retain them as customers;

WHEREAS, some state utility regulators have allowed local utilities to direct their lowest cost gas purchases to certain industrial customers, rather than giving all their customers the benefit of lower cost gas supplies;

WHEREAS, such discriminatory tactics reduce the incentives of both pipelines and distribution companies to lower their overall system supply gas costs and are thereby injurious to residential and other small gas users;

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) calls upon state utility regulatory commissions to deny requests to target low-cost sales gas purchases by local natural gas distribution utilities to specific large gas customers;

BE IT FURTHER RESOLVED, that NASUCA urges state regulatory commissions to enforce non-discriminatory natural gas sales rates and to ensure that least-cost gas purchases benefit all sales customers of local distribution utilities;

BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) authorizes the Executive Committee to develop positions and take actions pursuant to the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions, prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Sedona, Arizona
Place

November 15, 1986
Date

Submitted by:
NASUCA Gas Committee

Thomas C. Gorak, Chairman

Office of People's Counsel
American Building, Ninth Floor
231 East Baltimore Street
Baltimore, Maryland 21202
(301) 659-6056

Reported out by Resolutions
Committee

Date: November 6, 1986

Favorable X Not Favorable

Deppish Kirkland
COMMITTEE MEMBER

William A. Spratley
COMMITTEE MEMBER

Daniel Clearfield
COMMITTEE MEMBER

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Urging the Federal Energy Regulatory Commission to expeditiously resolve pending settlement agreements affecting open access transportation

WHEREAS, the Federal Energy Regulatory Commission (FERC), in Orders Nos. 436 and 436A, has adopted rules pertaining to open access transportation of natural gas, which provide, among other things, that such transportation be offered on a nondiscriminatory basis to all customers in order to promote competition in wellhead prices;

WHEREAS, certain interstate pipelines have entered into negotiations with their customers and other interested parties, including local distribution companies, end-users, state commissions, consumer advocates, etc., to determine the basis on which the interstate pipeline will become an open access transporter of gas;

WHEREAS, these negotiations have been filed with the FERC in the form of settlement proposals, and all parties have been given the opportunity, pursuant to applicable rules, to file both initial and responsive comments in support of or in opposition to the various proposals;

WHEREAS, FERC has not yet acted on the majority of these settlement proposals;

WHEREAS, prompt action on FERC's part, be it to accept or reject these settlement proposals, is of the utmost importance to the parties because of the significant impact on both present and future gas supply planning, which in turn impacts directly on the price of gas paid by residential gas consumers;

WHEREAS, continued inaction on the proposals by FERC introduces uncertainty into the gas planning and acquisition process for all parties: producers, pipelines, local distribution companies, consumers, and the like;

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the FERC to promptly consider and resolve each settlement proposal now pending before it;

BE IT FURTHER RESOLVED, that NASUCA urges neither acceptance nor rejection of each specific proposal, but urges FERC to base its decision on a consideration of whether the particular settlement proposal is consistent with the goals and objectives of Order No. 436 and its companion orders;

BE IT FURTHER RESOLVED, that the Gas Committee be directed to mail a copy of the foregoing resolution to each FERC commissioner; and,

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions, prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Sedona, Arizona
Place

November 15, 1986
Date

Submitted by:
NASUCA Gas Committee

Thomas C. Gorak, Chairman
Office of People's Counsel
American Building, Ninth Floor
231 East Baltimore Street
Baltimore, Maryland 21202
(301) 659-6046

Reported out by Resolutions
Committee

Date: November 6, 1986

Favorable X Not Favorable

Deppish Kirkland
COMMITTEE MEMBER

William A. Stratley
COMMITTEE MEMBER

Daniel Clearfield
COMMITTEE MEMBER

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Urging the Federal Energy Regulatory Commission
To Amend Its Proposed Statement of Policy
Concerning the Recovery of Take-or-Pay Costs

- WHEREAS, the Federal Energy Regulatory Commission (FERC), in Docket No. PL87-3-000, has issued a proposed statement of policy concerning the recovery of take-or-pay buy-out and buy-down costs by interstate gas natural gas pipelines;
- WHEREAS, the stated goal of the policy statement is to balance the interests of the pipelines and their customers by spreading the impact of take-or-pay costs in a responsible, fair and equitable manner;
- WHEREAS, the proposed policy statement provides an exception to FERC's general policy that any such costs should be recovered through the pipeline's commodity sales rate, and instead permits recovery of those costs through the demand charge;
- WHEREAS, the demand charge mechanism selected by the Commission leads to results which are decidedly unbalanced and which place the burden of take-or-pay cost recovery on those customers least able to avoid those cost burdens;
- WHEREAS, pursuant to the demand charge mechanism, current firm sales customers are largely responsible for these costs;
- WHEREAS, current firm customers are generally residential and commercial customers behind local distribution companies which are the only customer classes which continue to purchase the pipeline's high priced system supply gas through this period of mounting take-or-pay liabilities;
- WHEREAS, at the time such liabilities were incurred pipelines were seeking firm gas supplies in excess of those necessary to serve their firm sales customers and which included a certain level of interruptible sales;

RESOLUTION
(Urging the Federal Energy Regulatory
Commission to Amend Its Proposed
Statement of Policy Concerning the
Recovery of Take-or-Pay Costs)
PAGE TWO

WHEREAS, comments filed with respect to the proposed policy statement by those parties representing residential customers and local distribution companies have almost uniformly opposed the proposed cost recovery mechanism;

WHEREAS, if the LDCs are held responsible for all past, present and future take-or-pay liabilities, industrial customers behind LDCs will find it extremely advantageous to avoid any surcharge the LDC might put on rates by bypassing the LDC, with the result that most or all such costs would be relegated to residential customers;

WHEREAS, implementation of the proposed policy statement will serve to disproportionately increase gas prices to residential customers, i.e., those customers which are largely unable to participate in the Order No. 436 program because of FERC's failure to insist on pipeline compliance with the contract demand conversion/reduction option;

THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the FERC to promptly reconsider the cost recovery mechanism set forth in Docket No. PL87-3-000;

BE IT FURTHER RESOLVED, that NASUCA urges the Commission to establish a policy that take-or-pay liabilities should be viewed as a joint or common cost and allocated over both sales and transportation charges on a volumetric basis to properly reflect the fact that these costs were incurred during a period of time when both transportation and sales customers were exclusively sales customers;

BE IT FURTHER RESOLVED, that NASUCA urges the Commission to distribute any recovery of any such costs determined to have been prudently incurred on a volumetric basis, so that market signals to producers concerning the market clearing price of gas will not be distorted;

BE IT FURTHER RESOLVED, that the Gas Committee be directed to mail a copy of the foregoing resolution to each FERC Commissioner; and,

RESOLUTION
(Urging the Federal Energy Regulatory
Commission to Amend Its Proposed
Statement of Policy Concerning the
Recovery of Take-or-Pay Costs)
PAGE THREE

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

**Submitted and Favorably
Reported by:**

Place: Washington, D.C.

NASUCA Gas Committee

Date:

Date: June 1, 1987

Committee Members:

Thomas Gorak (MD), Chairman
David Barasch (PA)
Mollie Glitsis (GA)
Joe Ingles (UT)
Jana Koerwitz (AZ)
Perry Pockros (IL)
Margaret Ann Samuels (OH)

1987-7

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Urging the Reappointment of Charles G. Stalon
to the Federal Energy Regulatory Commission

WHEREAS, the present term of Federal Energy Regulatory
Commissioner Charles G. Stalon expires in October of
1987;

WHEREAS, as of the date of this Resolution, Commissioner Stalon
has not been reappointed by the current administration;

WHEREAS, Commissioner Stalon has been a strong advocate for the
interests of consumers with respect to current issues
in the natural gas industry;

WHEREAS, even in those instances where Commissioner Stalon's
viewpoint does not completely coincide with the
interests of residential customers, Commissioner Stalon
has demonstrated the ability to deal with conflicts and
problems in a thoughtful and reasoned manner, analyzing
the problem on the basis of his own independent legal/
economic analyses;

THEREFORE, BE IT RESOLVED that the National Association of State
Utility Consumer Advocates (NASUCA) supports the
renomination of Charles G. Stalon as a Commissioner of
the Federal Energy Regulatory Commission;

BE IT FURTHER RESOLVED, that NASUCA directs the Gas Committee to
mail a copy of the attached letter to President Ronald
Reagan, Representatives John D. Dingell (D. Michigan)
and Philip R. Sharp (D. Indiana), Senators Bill Bradley
(D. New Jersey) and J. Bennett Johnston (D. Louisiana),
and to other members of Congress as deemed necessary by
the Gas Committee;

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive
Committee to take further actions consistent with the
contents of this Resolution. The Executive Committee
shall inform the membership of such positions and
actions prior to proceeding with them, if at all
possible. In any event, the Executive Committee will
advise the membership of any actions taken; consistent
with the recommendations contained herein.

RESOLUTION
(Urging the Reappointment of
Charles G. Stalon to the Federal
Energy Regulatory Commission)
PAGE TWO

Approved by NASUCA:

By telephone vote pursuant
to Article VII, §8 of
the NASUCA Constitution

Date: September 4, 1987

Submitted by:

NASUCA Gas Committee

Committee Members:

Thomas Gorak (MD), Chairman
Craig Burgraff (PA)
Mollie Glitsis (GA)
Joe Ingles (UT)
Jana Koerwitz (AZ)
Perry Pockros (IL)
Margaret Ann Samuels (OH)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
RESOLUTION

Calling for the Staff of the Federal Energy Regulatory Commission to Investigate and Litigate Issues of Imprudent Practices by Natural Gas Pipelines.

- WHEREAS, The Federal Energy Regulatory Commission (FERC) in its Order No. 500 has established a policy of allowing interstate natural gas pipelines to bill customers directly for up to 50 percent of costs paid to producers to reduce take-or-pay liabilities without regard to whether those liabilities or costs were prudently incurred;
- WHEREAS, The FERC has a statutory duty under the Natural Gas Act of 1938 to protect consumers and to permit only just and reasonable rates, which may recover only prudently incurred costs;
- WHEREAS, Where the prudence of a pipeline's take-or-pay costs is challenged, the FERC has set the matter for hearing;
- WHEREAS, The Staff of the FERC has stated on the record in at least two proceedings concerning the prudence of a pipeline's incurrence of take-or-pay costs, of which the pipeline is seeking recovery under the Order No. 500 policy, that the Trial Staff's policy is "not to participate in Order 500 filings";
- WHEREAS, The failure of the FERC Trial Staff to participate in Order No. 500 hearings, to conduct discovery, investigate and present evidence may result in unjust and unreasonable rates and charges which may be flowed through to consumers.
- THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) hereby urges the FERC to declare its policy to be to ensure that only just and reasonable rates and charges may be billed to customers of pipelines under Order No. 500 and that when the prudence of a pipeline's take-or-pay costs is put at issue, the FERC Trial Staff be directed to participate in the proceeding to help ensure that the FERC carries out its duty to consumers under the Natural Gas Act of 1938.
- BE IT FURTHER RESOLVED, that NASUCA directs the Gas Committee to send a copy of this resolution to each Commissioner of the FERC;

BE IT FURTHER RESOLVED, that NASUCA directs the Gas Committee to mail a copy of the foregoing resolution to the respective Chairmen and Members of the U.S. House of Representatives Committee on Energy and Commerce and U.S. Senate Committee on Energy and Natural Resources; and,

BE IT FURTHER RESOLVED, that NASUCA authorizes its Executive Committee to adopt positions on legislation, rules, and other proposals consistent with the contents of this Resolution. The Executive Committee will advise the membership of any actions, prior to taking such action, if at all possible. In any event, the Executive Committee will inform the membership of any actions taken pursuant to this Resolution.

Approved by NASUCA:

Submitted and Favorably
Reported by:

San Francisco, CA

NASUCA Gas Committee

October 31, 1988
Date

October 21, 1988
Date

Committee Members:
Margaret Ann Samuels (OH), Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
James W. Burk (IN)
Mollie Glitsis (GA)
Denise Goulet (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)
Perry Pockros (IL)
James White (MA)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
RESOLUTION

Urging the state regulatory commissions to recognize that take-or-pay costs are not costs of gas for which captive consumers should pay.

- WHEREAS, The long term contracts that interstate natural gas pipelines entered into with gas producers for deregulated gas following passage of the Natural Gas Policy Act (NGPA) had high take-or-pay requirements, committing pipelines to pay the producer a set percentage of available gas whether or not they took the volume;
- WHEREAS, The resulting increased production and rapidly escalating prices combined with the recession of the early 1980's, declining prices of alternate fuel and the demise of OPEC led to conservation, spot gas and alternate fuel competition and an oversupply of gas so that pipelines had no market for their contracted volumes and incurred high take-or-pay liabilities;
- WHEREAS, The pipelines are paying hundreds of millions of dollars in lump sum settlements to producers to resolve take-or-pay liabilities and are now seeking to recover these take-or-pay costs from their customers, who are primarily local distribution companies (LDCs);
- WHEREAS, The Federal Energy Regulatory Commission (FERC) in Order No. 500 established policies allowing pipelines to bill customers directly for 35 to 50 percent of these costs without regard to pipeline prudence, provided the pipeline absorbs an equal amount; alternatively pipelines may file to collect these costs through a regular rate case;
- WHEREAS, Many pipelines have received FERC approval to begin billing take-or-pay costs to their LDC customers, which in turn are requesting their state and local commissions to allow them to recover the take-or-pay costs from consumers in rates;
- WHEREAS, The take-or-pay costs are payments to producers based on past liabilities and are billed directly to customers who decreased gas purchases; thus they are not a cost of gas, as the FERC itself has recognized;

WHEREAS, Natural gas consumers who are sales customers of LDCs have paid the high gas costs resulting from the take-or-pay contracts, while other larger volume end-users have been able to obtain spot gas and avoid paying for pipeline sales gas;

WHEREAS, Residential consumers, contrary to statements by the FERC, have not contributed to the take-or-pay problem and should not be held responsible for its costs;

WHEREAS, State and Local commissions should have flexibility in determining the proper regulatory treatment of take-or-pay costs billed to LDCs under Order No. 500, including the right to determine that transportation customers and LDC shareholders should be allocated a portion of these costs;

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) strongly urges state regulatory commissions to recognize the foregoing considerations in determining the proper regulatory treatment of take-or-pay costs billed under FERC Order No. 500, and in particular to recognize that contract renegotiation costs are not a cost of gas;

BE IT FURTHER RESOLVED, that NASUCA urges state regulatory commissions to establish equitable cost-sharing allocations to utility shareholders as well as among all classes of customers, recognizing that captive customers are not responsible for these costs;

BE IT FURTHER RESOLVED, that NASUCA urges the Congress of the United States to enact Legislation if necessary to enable these actions by state commissions.

BE IT FURTHER RESOLVED, that NASUCA authorizes its Executive Committee to adopt positions on legislation, rules, and other proposals consistent with the contents of this Resolution. The Executive Committee will advise the membership of any actions, prior to taking such action, if at all possible. In any event, the Executive Committee will inform the membership of any actions taken pursuant to this Resolution.

Approved by NASUCA:

San Francisco, CA
Place

October 31, 1988
Date

Tx-Abstention

Submitted and Favorably
Reported by:

NASUCA Gas Committee

October 21, 1988
Date

Committee Members:

Margaret Ann Samuels (OH), Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
James W. Burk (IN)
Mollie Glitsis (GA)
Denise Goulet (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)
Perry Pockros (IL)
James White (MA)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

URGING THE FEDERAL ENERGY REGULATORY COMMISSION
TO FACILITATE THE RESOLUTION OF LOCAL DISTRIBUTION COMPANY
BYPASS AT THE STATE OR LOCAL REGULATORY LEVELS

WHEREAS, the Federal Energy Regulatory Commission's (FERC) natural gas deregulation policies have encouraged bypass of local distribution gas utilities by end users;

WHEREAS, bypass occurs when a customer of a natural gas local distribution company (LDC) abandons the LDC's service and connects directly to an interstate natural gas pipeline;

WHEREAS, large volume end user abandonment of a LDC's service results in a significant loss of load and distribution investments which become "stranded" or unneeded;

WHEREAS, stranded investments may result in LDC applications for increased rates to remaining captive customers to recover additional fixed costs;

WHEREAS, in order to prevent bypass, state and local regulators have allowed LDCs to charge bypass candidates a lower rate than otherwise might be levied;

WHEREAS, providing discount load retention rates to bypass candidates may lead to LDCs to apply for increased rates to remaining customers to make-up LDC foregone revenue requirements;

WHEREAS, the consequences of bypass decisions are local and it is declared federal policy to defer to the states on issues which clearly affect them;

WHEREAS, bypass decision making should be left to state and local regulators;

THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the FERC to exercise its authority to defer to state and local regulatory commissions with jurisdiction over affected LDCs to make the determination as to whether bypass would prejudice the interests of present or future LDC customers;

BE IT FURTHER RESOLVED, that NASUCA urges the United States Congress to amend the Natural Gas Act to prohibit interstate pipelines from transporting natural gas to persons or businesses unless a state regulatory commission certifies that such transportation would not displace or bypass sales or transportation provided or offered by a LDC and that such transportation would not prejudice the interests of present or future customers of the affected LDC;

BE IT FURTHER RESOLVED, that NASUCA directs the Gas Committee to mail a copy of the foregoing resolution to each FERC Commissioner;

BE IT FURTHER RESOLVED, that NASUCA directs the Gas Committee to mail a copy of the foregoing resolution to the respective Chairmen and Members of the U.S. House of Representatives Committee on Energy and Commerce and U.S. Senate Committee on Energy and Natural Resources; and,

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Submitted and Favorably
Reported by:

San Francisco, CA

NASUCA Gas Committee

October 31, 1988

October 21, 1988

Date

Date

Committee Members:

Margaret Ann Samuels (OH), Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
James W. Burk (IN)
Mollie Glitsis (GA)
Denise Goulet (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)
Perry Pockros (IL)
James White (MA)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Opposing, as written, H.R. 1595 and S. 625, to
decontrol remaining natural gas wellhead prices

- WHEREAS, The National Association of State Utility Consumer Advocates (NASUCA) is comprised of 34 state agencies that are statutory representatives of residential utility ratepayers;
- WHEREAS, NASUCA has long opposed the decontrol of natural gas wellhead prices in order to protect residential ratepayers from adverse consequences and risks of higher prices;
- WHEREAS, the proposed Natural Gas Regulatory Reform Act of 1989, H.R. 1595 and S. 625, would repeal all remaining Natural Gas Policy Act of 1978 wellhead gas price controls on natural gas as of January 1, 1993;
- WHEREAS, H.R. 1595 and S. 625 (the bills) repeal NGA jurisdiction over decontrolled or deregulated natural gas;
- WHEREAS, under the bills, certain volumes of natural gas will be decontrolled prior to January 1, 1993, upon entering renegotiation, termination, or expiration of the contract after date of enactment;
- WHEREAS, present contracts still contain provisions such as "favored nations" clauses, which would be triggered immediately by decontrol, thereby raising the price to the level of the highest prices being paid in a specified production area;
- WHEREAS, there is no clear evidence that natural gas prices will decline if decontrolled;
- WHEREAS, the one-way escalator clauses present in some higher priced gas contracts would prevent the automatic reduction of such prices to market level;
- WHEREAS, the FERC's Order 451 allows producers to demand higher prices under existing old gas contracts, and to terminate the contracts if they do not get them, thereby causing higher pipeline gas costs;

WHEREAS, any legislation which eliminates price controls prior to expiration or renegotiation of contracts, unless at the same time voiding all existing pricing provisions contained in these contracts would be detrimental to consumers;

WHEREAS, NASUCA believes that decontrolling natural gas prices under existing contracts benefits only gas producers, and;

WHEREAS, postponing final decontrol for a few years does not remove the problem for consumers;

THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates opposes H.R. 1595 and S. 625 as written.

BE IT FURTHER RESOLVED, that NASUCA directs the Gas Committee to mail a copy of the foregoing resolution to the respective Chairmen and members of the U.S. House of Representatives Committee on Energy and Commerce and U.S. Senate Committee on Energy and Natural Resources.

Approved by NASUCA:

Washington, D.C.
Place

April 6, 1989
Date

Submitted and Favorably Reported by:

NASUCA Gas Committee

April 5, 1989
Date

Committee Members:

Margaret Ann Samuels (OH) Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
James W. Burk (IN)
Mollie Fleeman Glitsis (GA)
Denise Goulet (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)
James White (MA)
Byron Harris (WV)
David Butler (SC)

THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
RESOLUTION

Urging The Congress Of The United States
To Enact A "Regulatory Fairness Act"
For Natural Gas

- WHEREAS, Under Section 4 of the Natural Gas Act (NGA) a natural gas utility filing for a rate increase at the Federal Energy Regulatory Commission (FERC) may put the rate increase into effect subject to refund no later than five months after the filing, which is in most instances many months or even years before the FERC determines whether the increased rates are just and reasonable;
- WHEREAS, Natural gas consumers must pay the increased gas rates in effect subject to refund during the pendency of a rate proceeding at the FERC pursuant to NGA Section 4;
- WHEREAS, Under Section 5 of the NGA rates found to be excessive or unreasonable by the FERC may be reduced only prospectively;
- WHEREAS, Under Section 5 of the NGA an affected gas customer or consumer who files a complaint at the FERC alleging that the rates of a natural gas pipeline are unjust and unreasonable must continue to pay the rates until the final determination of the complaint and will never receive a refund of amounts paid under unjust and unreasonable rates prior to a final determination by the FERC;
- WHEREAS, When the FERC on its own initiative sets for hearing under NGA Section 5 the reasonableness of existing rates and subsequently determines that a pipeline has been charging unjust and unreasonable rates, consumers receive relief only prospectively and are entitled to no refunds of excessive amounts paid during the pendency of the proceeding;
- WHEREAS, In 1988 the Congress enacted the Regulatory Fairness Act (PL 100-473, supported by OCC GB Resolution 87-25) which amends the Federal Power Act of 1935 to provide that rates of an electric utility will be subject to refund during the pendency of a proceeding at the FERC to determine the reasonableness of that utility's rates or practices;

WHEREAS, Under the Regulatory Fairness Act of 1988 consumers may receive refunds of excessive amounts paid under rates subsequently found to be unjust and unreasonable;

WHEREAS, The FERC is utilizing the Regulatory Fairness Act of 1988 to make electric rates subject to refund pending investigation and hearing;

THEREFORE BE IT RESOLVED that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the Congress of the United States to enact legislation for natural gas regulation to parallel the Regulatory Fairness Act of 1988, entitling consumers to refunds if natural gas rates and practices are found to be excessive, unjust or unreasonable.

BE IT FURTHER RESOLVED, that NASUCA directs the Gas Committee to mail a copy of the foregoing resolution to each FERC Commissioner;

BE IT FURTHER RESOLVED, the NASUCA directs the Gas Committee to mail a copy of the foregoing resolution to the respective Chairmen and Members of the U.S House of Representatives Committee on Energy and Commerce and U.S. Senate Committee on Energy and Natural Resources; and

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Page Three

Approved by NASUCA:-

Columbus, Ohio

Place

June 15, 1989

Date

Submitted and Favorably
Reported by:

NASUCA Gas Committee
Committee

June 14, 1989

Date

Committee Members:

Margaret Ann Samuels (OH) Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
James W. Burk (IN)
David Butler (SC)
Mollie Glitsis (GA)
Byron Harris (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)

THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Endorsing H.R. 1216 and S. 488,
the Renewable Energy and Energy Efficiency
Technology Competitiveness Act of 1989

- WHEREAS, the National Association of State Utility Consumer Advocates (NASUCA) is on record as supporting energy conservation as a way of reducing residential utility bills, and
- WHEREAS, energy efficiency and renewable energy reduces U.S. dependence on foreign oil and on non renewable fossil and fission sources of energy; and
- WHEREAS, energy efficiency and renewable energy technologies contribute less to environmental degradation than other energy sources; and
- WHEREAS, it is estimated that the U.S. could realistically save half of what it currently spends on its collective energy bills through energy efficiency; and
- WHEREAS, some energy efficiency measures and renewable technologies require further research, development and commercialization in order to better achieve the savings and energy independence Americans deserve; and
- WHEREAS, funding for such programs has dwindled throughout the past eight years causing a halt in the efficiency gains made through projects funded during the 1970's; and
- WHEREAS, the neglect of these programs during the past eight years has reduced the United States' ability to compete with other countries in developing technologies, product market competitiveness, market share and energy savings; and
- WHEREAS, the purpose of S. 488 and H.R. 1216 is to improve the competitiveness of U.S. industries that produce renewable energy and energy efficiency technology; and
- WHEREAS, S. 488 and H.R. 1216 establish performance goals for federal renewable energy research, development and demonstration (RD&D) programs to provide a yardstick against which progress can be measured;

WHEREAS, these measures authorize funding levels for renewable energy and energy efficiency RD&D on a multi-year basis necessary to provide stability in these programs; and

WHEREAS, these measures require the Department of Energy to present to Congress proposals for demonstrating the commercial application of the most promising of these technologies so that the fruits of research can be more successfully translated into competitively priced, marketable products;

THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates supports S. 488 and H.R. 1216, the Renewable Energy and Energy Efficiency Technology Act of 1989.

BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of the resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject of this resolution including the preparation of policy papers and othe communications reflecting NASUCA's position to the United States Congress. The Executive Committee shall advise the membership of any other proposed actions prior to taking this action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Columbus, Ohio
Place

Favorably Reported By:

NASUCA Gas
Committee

June 15, 1989
Date

June 16, 1989
Date

Committee Members:

Margaret Ann Samuels (OH) Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
James W. Burk (IN)
David Butler (SC)
Mollie Glitsis (GA)
Byron Harris (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)

THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Endorsing the State Energy Conservation Programs
Improvement Act of 1989 (H.R. 711 and S. 247)

WHEREAS, The National Association of State Utility Consumer Advocates (NASUCA) is on record as a longstanding proponent of energy conservation programs;

WHEREAS, H.R. 711 and S. 247:

- o require states to set goals for reducing energy consumption by ten percent by the year 2000;
- o provide greater flexibility for the Weatherization Program to perform furnace repairs and tune-up which are often the most cost effective conservation measures for low-income housing;
- o encourage states to develop innovative methods for financing energy efficiency in buildings; and
- o provide additional financial support for federally funded state and locally administered conservation programs.

WHEREAS, NASUCA recognizes that there is a need to review and update federal programs addressing state and local energy conservation, since these programs have been in existence for many years and in consideration of emerging environmental problems;

THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates continues its commitment to energy conservation by endorsing the State Energy Conservation Programs Improvement Act of 1989 (H.R. 711 and S. 247)

BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of the resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject of this resolution including the preparation of policy papers and other communications

reflecting NASUCA's position to the United States Congress. The Executive Committee shall advise the membership of any other proposed actions prior to taking this action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Columbus, Ohio
Place

Favorably Reported By:

NASUCA Gas
Committee

June 15, 1989
Date

June 16, 1989
Date

Committee Members:

Margaret Ann Samuels (OH) Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
James W. Burk (IN)
David Butler (SC)
Mollie Glitsis (GA)
Byron Harris (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)

THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Urging the Federal Energy Regulatory Commission to
Prohibit Direct Ratepayer Funding of Gas Research
Institute End-Use Projects Where There Is No Showing
of Direct Ratepayer Benefit

- WHEREAS, The Federal Energy Regulatory Commission (FERC) annually approves the budget of Gas Research Institute (GRI) and permits interstate natural gas pipelines to assess a surcharge on all gas volumes transported to pay the costs of that budget;
- WHEREAS, Natural gas ratepayers pay a large portion of the costs of GRI's R&D, both through the surcharge and price increases caused by the GRI end-use research;
- WHEREAS, Natural gas distribution (or pipeline) companies, appliance manufacturers and natural gas producers, who are not members of the existing classes of ratepayers, are the primary beneficiaries of many of the products resulting from GRI research;
- WHEREAS, Many new end-use research projects are directed toward gas fueled appliances, such as gas fueled drinking purifiers and self-cleaning ovens, the development of natural gas vehicles, and refueling systems, which will, at best, inure to the benefit of future gas users rather than current customers and should therefore be excluded, as a matter of law, from GRI's approved budget.
- WHEREAS, The United States Court of Appeals for the D.C. Circuit in *Process Gas Consumers v. FERC*, 866 F.2d 470 (1987), required FERC, in evaluating the Gas Research Institute's end-use funding, to "find that the research, if successful, will on balance work to the benefit of existing classes of ratepayers -- those customers paying for the research in the first place;"
- WHEREAS, The FERC was directed by the Court to consider the following factors:

On the benefit side of the equation, FERC may include all economic gains that might inure to existing classes of ratepayers through the employment of gas-saving devices, thus excluding those efficiency gains that flow to consumers who switch to gas by reason of ratepayer-financed research.

FERC must at least consider whether a project is intended to create a new market for gas among present consumers of an alternative fuel, and whether the new demand is likely to work to the disadvantage of existing ratepayers by pushing up gas prices...

WHEREAS, The D.C. Circuit directed FERC to review GRI's end-use projects with regard to the benefits they provide to existing ratepayers;

WHEREAS, GRI's emphasis on market retention, solely for the purpose of retaining market share and increasing the profits of producers and pipelines, provides no direct benefit to existing ratepayers and may in fact inure to their detriment by causing the price of gas to increase and/or result in increased construction of the distribution system which has been cited by the Court as an undesirable result.

WHEREAS, If ratepayers are to fund GRI, the types of research that provide the most direct benefits to existing ratepayers, e.g., conservation, increased recovery technology, should be emphasized.

WHEREAS, FERC's continued failure to undertake a critical and balanced review of GRI's programs will ultimately result in costs but no net benefits to the ratepayers who bear the burden of the gas surcharge.

THEREFORE BE IT RESOLVED that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the Federal Energy Regulatory Commission to promulgate regulations prohibiting direct ratepayer funding of Gas Research Institute programs, especially end-use projects where there is no showing of direct ratepayer benefits.

BE IT FURTHER RESOLVED, that NASUCA directs the Gas Committee to mail a copy of the foregoing resolution to each FERC Commissioner; and

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Boston, Massachusetts

November 12, 1989
Date

Submitted and Favorably
Reported by:

NASUCA Gas Committee

October 20, 1989
Date

Committee Members:

Margaret Ann Samuels (OH), Chairman
Craig Burgraff (PA)
James Burk (IN)
Paul Buckley (MD)
Mollie Glitsis (GA)
Byron Harris (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)

THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Resolving That The Federal Energy Regulatory Commission
In The Final Version of Order No. 500 Should Clarify That
Local Distribution Companies Are Explicitly Included If
"Equitable Sharing" Of Take-or-Pay is Retained

- WHEREAS, The Federal Energy Regulatory Commission (FERC) issued an interim policy statement (Order No. 500) in August, 1987 which purported to respond to a wide range of issues, including take-or-pay issues, contained in the mandate of the United States Court of Appeals in Associated Gas Distributors v. FERC;
- WHEREAS, Order No. 500 sought to establish an equitable hearing of take-or-pay settlement costs among all segments of the natural gas industry;
- WHEREAS, Since the issuance of Order No. 500, a number of state Public Service Commissions (PSCs) have determined both that Order No. 500 is ambiguous regarding its intent to allow PSCs to include local distribution companies (LDCs) in the sharing of these costs and that the Supremacy Clause of the U.S. Constitution prohibits assessing LDCs for a portion of these costs on equitable grounds;
- WHEREAS, On October 16, 1989, the United States Court of Appeals determined that the FERC had not adequately responded to its mandate and directed the federal agency to issue a final version of Order No. 500 within 60 days;
- WHEREAS, If upon reconsideration of Order No. 500, the FERC elects to reject challenges to the "equitable sharing" approach, such as NASUCA's call for use of Section 5 of the Natural Gas Act to resolve the problem, then the FERC must clearly state its intent so that all segments of the industry, including LDCs, directly bear a portion of these costs;
- WHEREAS, The preemption doctrine, which emanates from the Supremacy Clause, does not prohibit state denial of passthrough of federally set rates if no conflict is presented;
- THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the Federal Energy Regulatory Commission to emphasize in its final version of Order No. 500 that the federal policy calls for an equitable sharing of take-or-pay costs among all segments of the natural gas industry, including LDCs;

BE IT FURTHER RESOLVED that the FERC state in its final version of Order No. 500 that state PSCs are empowered to extend the federal policy of the equitable sharing to include LDCs since it would not conflict with the stated federal action.

BE IT FURTHER RESOLVED that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Submitted and Favorably
Reported by:

Boston, MA

NASUCA Gas Committee

November 14, 1989
Date

November 13, 1989
Date

Committee Members:

Margaret Ann Samuels (OH), Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
James W. Burk (IN)
Mollie Glitsis (GA)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)

THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Resolving That The Federal Energy Regulatory Commission
Should Return To The Legal And Equitable Principles
Of The Natural Gas Act And Rely On Evidence Of Actual
Cost In Its Rate Design Decisions

- WHEREAS, The Federal Energy Regulatory Commission (FERC) in May, 1989 issued a policy statement in docket No. PL89-2 regarding rate design elements which it recommended in order to achieve its announced goals of maximizing throughput and rationing peak capacity on interstate gas pipelines;;
- WHEREAS, FERC's policy goal of rationing peak capacity by price to those who value it the most will shift costs from gas transportation users and result in higher costs to captive heating consumers who need gas on the coldest days;
- WHEREAS, Rates for natural gas service are to be based on the cost of providing service, pursuant to the Natural Gas Act of 1938;
- WHEREAS, The cost of providing gas service during peak periods has not been shown to be substantially higher than at other times;
- WHEREAS, FERC's policy statement provides no legal basis for its departure from cost-of-service principles to adoption of value of service pricing;
- WHEREAS, Encouraging maximum usage of gas by fostering throughput to the fullest extent possible fails to encourage economic usage of a valuable resource, primarily benefits gas producers and would result in higher gas prices by depleting the excess gas supply at a faster rate;
- WHEREAS, FERC's proposal for seasonal rates which is intended to increase summer gas usage and shift costs to heating customers cannot be justified based upon pipeline capacity constraints since these constraints often occur at times other than in coldest weather;
- WHEREAS, The purpose of natural gas regulation has been declared by the U.S. Supreme Court to be to protect consumers from excessive prices;

WHEREAS, FERC staff and administrative law judges have been subjected to education sessions in order to supplant the evidentiary presentations and maximize the likelihood that decisions will reflect the economic theory of the rate design policy statement;

THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the Federal Energy Regulatory Commission to return to the NGA-mandated principles of cost-based rates and protection of ratepayers in setting rate design elements for gas pipeline companies;

BE IT FURTHER RESOLVED that NASUCA calls upon the FERC to consider whether increased gas usage is not an end to be achieved at all costs;

BE IT FURTHER RESOLVED that NASUCA urges the FERC to make rate design decisions in all cases based on the evidence presented without predetermination based on goals which are both inequitable and economically unsound.

BE IT FURTHER RESOLVED that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Submitted and Favorably
Reported by:

Boston, MA

NASUCA Gas Committee

November 14, 1989
Date

November 13, 1989
Date

Committee Members:
Margaret Ann Samuels (OH),
Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
James W. Burk (IN)
Mollie Glitsis (GA)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Affirming NASUCA's support for Federal Energy Regulatory Commission policies which require interstate pipelines to provide to local distribution companies who have historically been firm sales customers access to upstream pipeline firm transportation capacity rights and access to contract storage capacity rights.

- WHEREAS, regulation of natural gas utilities has been moving toward encouraging more competition with respect to the acquisition of natural gas supplies;
- WHEREAS, the Federal Energy Regulatory Commission has encouraged interstate pipelines to move towards a transportation function in lieu of their historic merchant function in which they had been the primary purchasers of natural gas at the wellhead;
- WHEREAS, local distribution companies historically relied on interstate pipelines to purchase almost all their natural gas supply requirements;
- WHEREAS, local distribution companies now find themselves faced with more gas purchasing options as well as more responsibilities for pursuing least cost gas purchasing practices as a result of federal open access policies governing the transportation of natural gas in the interstate commerce, as well as state oversight of purchasing and transportation policies;
- WHEREAS, the historic configuration of interstate pipeline operations has not changed significantly although the historic relationship between those pipelines and their local distribution company customers has changed;
- WHEREAS, the interstate pipeline to which the local distribution is interconnected is often not a direct link to the natural gas production field but rather is a middleman between the local distribution company and the interstate pipeline connected to the production field;

- WHEREAS, the winter peaking requirements of many local distribution companies and the operational needs of the interstate pipelines require access to storage capacity to enable local distribution utilities to have access to cheaper sources of gas during winter periods when peak demands occur;
- WHEREAS, natural gas prices in the spot market are higher in periods of peak demand which occur during the winter months than in periods of weak demand which occur during the summer months;
- WHEREAS, local distribution companies need access to both upstream pipeline capacity as well as storage capacity in order to obtain transportation for their purchased gas supplies from the wellhead to the ultimate consumer and to take maximum advantage of the lowest priced sources of supply available in both the long-term and spot markets;
- WHEREAS, only by obtaining the flexibility in gas purchasing practices which is provided through access to storage capacity and upstream pipeline capacity can local distribution utilities take full advantage of opportunities which exist in the competitive gas purchasing market to minimize purchased gas costs for ultimate consumers;
- WHEREAS, local distribution utilities and their ratepayers have historically borne the full costs of the interstate pipelines' storage capacity and rights to firm transportation capacity on the upstream pipelines;
- THEREFORE BE IT RESOLVED THAT NASUCA strongly encourages state regulators and the Federal Energy Regulatory Commission to authorize and require pipeline companies under their jurisdiction to provide to their local distribution company customers who have historically been firm sales customers priority access to upstream pipeline capacity and storage capacity on a contractual basis with rates based on cost of service; and
- BE IT FURTHER RESOLVED that the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of the Resolution on legislation, regulations or any other type of proposal that concerns the subject matter of this Resolution, including the development of any policy papers reflecting NASUCA's position. The Executive

Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Santa Fe, Mexico
PLACE

June 15, 1990
DATE

Submitted and Favorably
Reported by:

NASUCA GAS Committee

May 30, 1990
Date

COMMITTEE Members:

Margaret Ann Samuels (OH),
Chairman
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Byron Harris (WV)
Ray Lark (SC)
Joseph Ingles (UT)
Bill Kowalski (CT)
Sandra Mattavous-Frye (DC)
Carl McIntosh (SC)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

Urging the Congress to Reject Pending Proposals to Amend the Public Utility Holding Company Act of 1935 for Natural Gas Holding Companies and to Consider a Narrower Amendment.

- WHEREAS, the National Association of State Utility Consumer Advocates (NASUCA) has long recognized the benefits of the Public Utilities Holding Company Act of 1935 (PUHCA) for consumers in limiting utility diversification and abuses such as cross-subsidization, anti-competitive acquisitions and shifting of risks to consumers;
- WHEREAS, consumer advocates and state regulators continue to encounter abuses and potential for cross-subsidies when utility affiliates diversify into other activities;
- WHEREAS, NASUCA opposes amendments to PUHCA which could weaken its consumer protection powers, which continue to be effective;
- WHEREAS, S.2761 and H.R. 5224, bills pending in the U.S. Senate and House of Representatives, respectively, purport to "clarify" PUHCA with respect to natural gas holding companies to ensure that gas supply related activities of the three registered gas holding companies (registered companies) be deemed reasonably incidental to the operation of a gas utility company;
- WHEREAS, the effect of deeming an activity reasonably incidental to the operation of a gas utility company which is a subsidiary of a registered company is, paradoxically, to allow the registered company to engage in such activity without regard for whether the activity primarily benefits the affiliated gas utility holding company;
- WHEREAS, activities such as the transmission, storage, marketing and supply of natural gas, as well as exploration for, development and production of natural gas and manufacture of synthetic gas, are deemed "non-utility" businesses under PUHCA;
- WHEREAS, the Securities and Exchange Commission (SEC) has interpreted Section 11(b)(1) of PUHCA to require that such activities by registered companies be for the primary benefit of affiliated local distribution companies;

WHEREAS, local distribution companies (LDCs) unaffiliated with registered companies can benefit consumers by diversifying their gas supplies, which may include obtaining natural gas transportation and storage services from subsidiaries of registered companies;

WHEREAS, state utility consumer advocates have urged that LDCs diversify their supplies in order to benefit consumers;

WHEREAS, natural gas transportation and storage services are regulated by the Federal Energy Regulatory Commission (FERC) under the Natural Gas Act which requires non-discriminatory provision of such services;

WHEREAS, transportation of natural gas under the open access provisions mandated by the FERC under the Natural Gas Act enables consumers to benefit from access to competitively priced gas supplies;

WHEREAS, natural gas storage services offered by interstate pipelines, including those owned by registered companies, can benefit consumers by enabling more favorable gas purchase terms;

WHEREAS, other non-regulated businesses such as natural gas marketing, production, exploration and development and manufacture are properly regarded as non-utility businesses under PUHCA and are services readily available to LDCs from many unaffiliated competitors; moreover the FERC has recognized the potential for anticompetitive dealings with marketing companies affiliated with pipelines;

WHEREAS, the National Association of Regulatory Utility Commissioners (NARUC) has explicitly endorsed the language of S.2761 and H.R. 5224, although the expanded services claimed as benefits in the NARUC resolution were all related to transportation, storage and sales by interstate pipelines;

WHEREAS, the amendment to PUHCA sought by the registered companies and endorsed by NARUC is much broader than necessary to provide the benefits of transportation and storage by registered companies to consumers of unaffiliated LDCs;

WHEREAS, the amendment to PUHCA sought by the registered companies will negate the central concept of an integrated natural gas system and is in conflict with the intent of PUHCA;

WHEREAS, NASUCA would not oppose an amendment to PUHCA which narrowly permits the provision of transportation and/or storage services to unaffiliated natural gas utilities where it can be shown that such service will increase the efficiency of the utility to be served and will benefit that utility's consumers; that such service will result in no detriment to the registered company's consumers; where the service to be provided remains under applicable public utility regulation;

WHEREAS, NASUCA's existing positions with respect to PUHCA remain otherwise unchanged;

THEREFORE BE IT RESOLVED that NASUCA urges NARUC to reconsider its endorsement of amending PUHCA to permit diversification beyond provision of natural gas transportation and storage services as described herein.

BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of the Resolution on legislation, regulations or any other type of proposal that concerns the subject matter of this Resolution, including the development of any policy papers reflecting NASUCA's position. The Executive Committee shall advise the membership of any proposed action prior to taking action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision;

Approved by NASUCA:

By mailed ballot vote pursuant
to Article VII, Section 8, of
the Bylaws

August 28, 1990

Submitted and Favorably Reported by:

NASUCA Gas Committee

August 8, 1990

Committee members:

Margaret Ann Samuels (OH), Chairman

Craig Burgraff (PA)

Paul Buckley (MD)

Rafael Epstein (NY)

Byron Harris (WV)

Joseph Ingles (UT)

Bill Kowalski

Sandra Mattavous-Frye (DC)

Carl McIntosh (SC)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

**Opposing the Federal Energy Regulatory Commission's (FERC)
Policies Allowing Waiver of Section 154.305(b)(1) of the
Commission's Regulations and Allowing Flow Through
in Pipeline PGA's of Producer Demand Charges on an
As-Billed Basis**

- WHEREAS, NASUCA has supported the FERC's actions towards the creation of workably competitive gas markets as long as local distribution companies are provided with adequate flexibility in their purchasing decisions and are protected from abuses of monopoly power;
- WHEREAS, the FERC's current regulations at Section 154.305(b)(1) require that the cost of a pipeline's purchases from producers be applied only to the commodity component of a pipeline's rates;
- WHEREAS, the FERC has recently allowed waivers of Section 154.305(b)(1) of its regulations to allow pipelines to flow through, in their PGA's, demand charges from producers on an as-billed basis;
- WHEREAS, the flow through of producer demand charges, on an as-billed basis, will shift risks associated with procurement of a marketable gas supply away from the pipeline and onto its customers;
- WHEREAS, the flow through of producer demand charges on an as-billed basis will limit pipeline customers' purchasing flexibility and will inhibit the flow of market signals from the end-user back to the wellhead;
- WHEREAS, the combined impact of the FERC's policy statement in favor of seasonal rates and the flow through of producer demand charges on an as-billed basis will be to drastically shift costs to heating customers in contravention of the purpose of natural gas regulation which is to protect consumers from excessive prices;
- WHEREAS, the FERC's actions are particularly egregious where it has allowed the flow through of affiliated producer demand charges on an as-billed basis;

WHEREAS, the flow through of affiliated producer demand charges on an as-billed basis clearly provides ample opportunity for the abuse of monopoly power on the part of pipelines and their production affiliates;

THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) opposes the Federal Regulatory Commission's policies allowing for the flow through of producer demand charges on an as-billed basis.

BE IT FURTHER RESOLVED that NASUCA urges the FERC to, at a minimum, deny the flow through of affiliated demand charges on an as-billed basis.

BE IT FURTHER RESOLVED that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Orlando, Florida
Place

November 13, 1990
Date

Submitted by:

NASUCA Gas Committee

October 18, 1990
Date

Committee Members:

Margaret Ann Samuels (OH) Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
Rafael Epstein (NY)
Byron Harris (WV)
Joseph Ingles (UT)
Bill Kowalski (CT)
Sandra Mattavous-Frye (DC)
Carl McIntosh (SC)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Urging the Federal Energy Regulatory Commission (FERC) to Reverse its Position that Interstate Pipeline Companies are Entitled to Have Pre-Granted Authority to Abandon Firm Transportation Services Upon the Expiration of a Contract for that Service

- WHEREAS, the issuance of Order No. 436, supported by the National Association of State Utility Consumer Advocates (NASUCA), marked the FERC's adoption of the goal of establishing workably competitive gas markets, primarily through the advent of "open access" transportation;
- WHEREAS, one of the cornerstones of the open access policy is the right of firm sales customers to convert firm sales entitlements to firm transportation capacity rights, as detailed at Section 284.10 of the FERC's Regulations;
- WHEREAS, the FERC and the U.S. Court of Appeals for the District of Columbia Circuit have concurred that the contract demand conversion right is critical if firm sales customers are to participate in the open-access transportation program;
- WHEREAS, Section 284.221(d) of the FERC's Regulations provides interstate pipeline companies with pre-granted authority to abandon firm transportation services upon the expiration of a contract for such services, even if the transportation services were conversions from firm sales contracts under Section 284.10(c) of the FERC's Regulations;
- WHEREAS, Section 7(b) of the Natural Gas Act (NGA), which applies, inter alia, to traditional certificated firm sales services rendered by interstate pipeline companies, was to protect customers against abusive exercise of monopoly power by interstate pipeline companies;
- WHEREAS, the right to fully exercise certificated firm transportation services without the threat of pre-granted abandonment is critical to the ability of firm customers to contract for reliable, long-term natural gas supplies;
- WHEREAS, the U.S. Court of Appeals recently rejected the FERC's explanation for its policy of allowing pre-granted abandonment of transportation services and remanded the issue to FERC for reconsideration;

WHEREAS, the stated reason for the Court's decision is that pre-granted abandonment of firm transportation service is at odds with the NGA's goal of protecting firm gas customers from abusive exercise of monopoly power;

THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates (NASUCA) strongly urges the FERC to revise its policy embodied at Section 284.221(d) of its Regulations so that interstate pipeline companies do not have pre-granted authority to abandon firm transportation services upon expiration of a contract for that service.

BE IT FURTHER RESOLVED that NASUCA urges the FERC to take this action when it prepares a final rule in response to the U.S. Court of Appeals.

BE IT FURTHER RESOLVED that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Orlando, Florida
Place

November 13, 1990
Date

Submitted by:

NASUCA Gas Committee

October 18, 1990
Date

Committee Members:

Margaret Ann Samuels (OH), Chairman
Craig Burgraff (PA)
Paul Buckley (MD)
Rafael Epstein (NY)
Byron Harris (WV)
Joseph Ingles (UT)
Bill Kowalski (CT)
Sandra Mattavous-Frye (DC)
Carl McIntosh

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Endorsing The Concept Of Integrated Least-Cost
Planning For An LDC**

- WHEREAS, The National Association of State Consumer Advocates (NASUCA) members are responsible for representing utility ratepayers in order that utility ratepayers may receive reliable service at a reasonable cost; and
- WHEREAS, NASUCA supports energy efficiency and conservation measures as an effective means to meet the energy needs of ratepayers; and
- WHEREAS, Natural gas is a vital and limited resource for which efficient use is in the national interest; and
- WHEREAS, Permitting the inefficient use of natural gas wastes a limited resource, with no guarantee that local natural gas distribution companies (LDCs) will have sufficient capacity at reasonable prices to meet increases in gas usage in the long-term; and
- WHEREAS, The 1991 National Energy Strategy recently issued by the Federal government emphasizes market forces, decontrol of wellhead prices, technological advances, and tax incentives to better ensure the adequate supply and efficient delivery of natural gas; and
- WHEREAS, These measures may not result in the efficient meeting of the gas energy needs of utility ratepayers at the least cost; and
- WHEREAS, In light of the National Energy Strategy and the LDCs' obligation to provide safe, reliable service at the least cost, the LDCs' system planning should reflect conservation efforts and the effects of conservation when evaluating supply purchase decisions; and
- WHEREAS, In order to ensure that all relevant factors are considered, the LDCs should conduct supply purchase decisions under a least-cost planning scenario with the appropriate integration of demand side measures into this scenario; and

WHEREAS, The LDCs' least-cost planning strategy should consider all feasible demand side options, weight these demand side options against supply options, and contain the most cost effective strategies for the utility and ratepayers; and

WHEREAS, Demand side options should be given equal weight with gas supply purchases and plant investment.

THEREFORE, BE IT RESOLVED that NASUCA supports integrated least cost planning for LDCs to address the long term energy needs of natural gas ratepayers.

BE IT FURTHER RESOLVED that NASUCA authorizes the Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

Seattle, WA
Place

May 21, 1991
Date

Submitted by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH) Chairman
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Byron Harris (WV)
Sandra Mattavous-Frye (DC)
Joe Ingles (UT)
Bill Kowalski (CT)
Carl McIntosh (SC)
Steve Moore (IL)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging That The Congress Adopt Proposed Changes To The
Natural Gas Act Which Would Require Deadlines For Final
Action By The FERC Regarding Unopposed Proposed Settlements,
Applications For Rehearing, Decisions On Remand And The Avoidance Of
Unreasonable Delays In The Issuance Of Initial Decisions**

- WHEREAS, The Natural Gas Act provides that an application to the Federal Energy Regulatory Commission (FERC) for rehearing is a prerequisite to any judicial review of a Commission order; and
- WHEREAS, No time limits for FERC action on initial decisions, decisions on remand from a reviewing court, or adoption of settlements currently exist, while a tolling order may delay action on applications for rehearing; and
- WHEREAS, Undue prejudice to all parties, including state utility consumer advocates wishing to appeal from FERC orders, as well as consumers who may be paying excessive rates, can result from the FERC's delay in acting upon these issues; and
- WHEREAS, Undue delay in acting upon applications for rehearing, decisions on remand or adoption of unopposed settlements may unjustly delay implementation or judicial review of FERC orders; and
- WHEREAS, Proposals pending before Congress would modify the rehearing procedures under the Natural Gas Act by establishing time limits under which the FERC must act on an application for rehearing.
- THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates supports federal legislative action that specifically establishes a 60-day time limit for FERC to grant or deny applications for rehearings, a similar limit for action on unopposed proposed settlements and judicial remands, and legislation to preclude unreasonable delays in the issuance of orders following initial decisions.

BE IT FURTHER RESOLVED that NASUCA authorizes the Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

Seattle, WA
Place

May 21, 1991
Date

Submitted by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH) Chairman

Paul Buckley (MD)

Craig Burgraff (PA)

Rafael Epstein (NY)

Byron Harris (WV)

Sandra Mattavous-Frye (DC)

Joe Ingles (UT)

Bill Kowalski (CT)

Carl McIntosh (SC)

Steve Moore (IL)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging that the Federal Energy Regulatory Commission Reject
Proposals To Empower Interstate Pipeline Companies With
The Pregranted Authority To Abandon Sales Services Upon the
Expiration Of A Contract For That Service.**

- WHEREAS, The Natural Gas Act was enacted to assure that natural gas consumers were protected from abusive practices by, among others, interstate pipelines; and
- WHEREAS, Many natural gas customers, including residential gas customers, have no viable alternative to natural gas for basic heating, cooking and other uses; and
- WHEREAS, The Congress and Federal Energy Regulatory Commission (FERC) are currently considering proposals which would enable interstate pipeline companies to unilaterally abandon sales services upon expiration of a contract for that service; and
- WHEREAS, The absence of fully competitive conditions in combination with a pre-granted authority to abandon creates the possibility that continued firm service to natural gas customers would be jeopardized.
- THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates strongly urges the Congress and FERC to reject proposals for pre-granted abandonment authority since it is inconsistent with the mandate from the United States Congress, as evidenced by Section 7(b) of the Natural Gas Act to fully protect firm customers from potential abuses.

BE IT FURTHER RESOLVED that NASUCA authorizes the Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

Seattle, WA
Place

May 21, 1991
Date

Submitted by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH) Chairman
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Byron Harris (WV)
Sandra Mattavous-Frye (DC)
Joe Ingles (UT)
Bill Kowalski (CT)
Carl McIntosh (SC)
Steve Moore (IL)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Opposing Legislation Abolishing The Federal Energy Regulatory Commission
And Transferring Its Duties To An Administrator Reporting To The
Secretary Of Energy And Affirming The Need For Continued Regulation Of
Interstate Pipelines And The Periodic Review Of The Rates Of Interstate Pipelines**

- WHEREAS, Legislation currently proposed in Congress would: 1) eliminate the Federal Energy Regulatory Commission (FERC) as an independent commission within the Department of Energy and transfer its statutory powers and duties to a single administrator reporting directly to the Secretary of Energy; 2) deregulate pipeline sales and transportation rates where pipelines' gas markets are found to be sufficiently competitive; and 3) eliminate the triennial review of pipeline rates; and
- WHEREAS, The FERC must allow only just and reasonable rates to be charged for interstate natural gas pipeline services and the triennial review of pipeline rates provides for periodic investigation of their justness and reasonableness; and
- WHEREAS, The FERC must base its decisions regarding just and reasonable rates on record evidence, affording rights of due process to all affected parties; and
- WHEREAS, The purpose of regulation under the Natural Gas Act is to protect consumers from abuse of monopoly power; and
- WHEREAS, A finding by the FERC of competition in a pipeline's gas markets does not necessarily prevent the pipeline from exercising monopoly power in specific situations; and
- WHEREAS, The deregulation of pipeline rates in competitive markets will have a negative impact on non-competitive markets in which pipelines provide service; and
- WHEREAS, The Department of Energy should not be provided with the conflicting goals of balancing the interests of shareholders, producers and customers with the goal of promoting various uses of energy; and

WHEREAS, The current structure of the Federal Energy Regulatory Commission allows for a diversity of regional interest to be represented in the Commission's makeup which diversity would be lost by placing the Commission's responsibilities under the Secretary of Energy.

THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the United States Congress to reject legislation transferring the powers and duties of the Federal Energy Regulatory Commission to an administrator reporting to the Secretary of Energy and to affirm the need for continued regulation of interstate pipelines under Natural Gas Act principles, including the periodic review of the rates of interstate pipelines.

BE IT FURTHER RESOLVED that NASUCA authorizes the Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

Seattle, WA
Place

May 21, 1991
Date

Submitted by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH) Chairman

Paul Buckley (MD)

Craig Burgraff (PA)

Rafael Epstein (NY)

Byron Harris (WV)

Sandra Mattavous-Frye (DC)

Joe Ingles (UT)

Bill Kowalski (CT)

Carl McIntosh (SC)

Steve Moore (IL)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging the Federal Energy Regulatory Commission
To Incorporate NASUCA Concerns Regarding Consumer
Needs In Its Rule On Pipeline Service Obligations
and Comparability In Docket No. RM91-11**

- WHEREAS, The Federal Energy Regulatory Commission (FERC) issued a Notice of Proposed Rulemaking (NOPR) in Docket No. RM91-11 on July 31, 1991, requesting comments by September 30, 1991;
- WHEREAS, The NOPR proposes a radical revision of the obligation of interstate pipelines to provide service under the Natural Gas Act of 1938, as well as: unbundling of pipeline services; requiring comparability of transportation services offered; implementation of straight fixed-variable rate design; release and assignment of pipeline capacity;
- WHEREAS, To achieve these ends the FERC would declare existing service agreements between pipelines and local distribution companies (LCDs) to be unjust and unreasonable, requiring such agreements to be renegotiated, and would guarantee pipeline recovery of its costs of reforming or buying out resulting take-or-pay costs;
- WHEREAS, The National Association of State Utility Consumer Advocates (NASUCA) has submitted comments to the FERC on its proposed rate design changes, based on NASUCA Resolution 1989-21;
- WHEREAS, NASUCA has opposed FERC policies and Congressional proposals of pregranting abandonment of firm transportation or sales service as inconsistent with the purpose of the National Gas Act to protect consumers from abusive exercise of monopoly power;
- WHEREAS, The NOPR proposes pregranted abandonment of long term sales and transportation service, unless a customer notifies the pipeline of its desire for continued service, in which case the customer has the right of first refusal to meet the highest regulated price and most favorable terms which the pipeline may be offered for the service;

WHEREAS, NASUCA endorses the right of pipeline customers to reduce their level of pipeline service, provided that they retain the right to obtain needed service at the lowest reasonable rate, retain protection from monopoly abuse, and are not forced to retain unneeded capacity merely because the pipeline is unable to market it elsewhere;

WHEREAS, NASUCA concurs with the NOPR that unbundling of pipeline services and provision of separate storage service for LDCs may be beneficial provided that a full range of alternatives is available;

WHEREAS, NASUCA is concerned that the FERC provide flexibility for pipelines and their customers to negotiate rate designs and terms of service agreements which take individual pipeline circumstances into account;

WHEREAS, LDCs and other pipeline transportation customers need access to capacity on pipelines which connect to producing areas (upstream pipelines) to procure competitive gas supplies, which capacity should be subject to cost-based rates;

WHEREAS, NASUCA believes that existing capacity brokering programs providing access to upstream capacity should not be automatically terminated but should be one of the options available as the issue is considered in pipeline rate proceedings;

WHEREAS, The result of the NOPR would be to shift further the responsibility for gas procurement for captive consumers to LDCs, who have an obligation to provide service, while shifting the responsibility of providing gas and other services to LDCs to a spectrum of unregulated entities with no obligation to serve beyond that in individual contracts;

WHEREAS, NASUCA believes that the FERC should continue to monitor carefully transactions involving pipeline marketing affiliates as set forth in Order No. 497, and expand such monitoring to pipeline transactions which compete directly with other providers as well as to other sellers of gas services to ensure review of potentially anticompetitive actions;

WHEREAS, The need to protect high priority customers, generally captive customers dependent on gas for heating purposes, from curtailment, whether supply or capacity related, remains for both sales and transportation service, and should be addressed in the final rule resulting from the NOPR;

WHEREAS, Comparability of service, whether offered by pipelines or pipeline shippers, is a concept that can benefit consumers only if structured to retain the essential protections of the Natural Gas Act;

THEREFORE BE IT RESOLVED, that NASUCA calls upon the FERC to exercise its authority to issue a final rule in the areas addressed by the NOPR to incorporate the concerns of NASUCA as expressed in its resolutions and the comments to be filed setting forth NASUCA's positions in Docket No. RM91-11;

BE IT FURTHER RESOLVED, that NASUCA urges the FERC to permit flexibility in the design of pipeline rates and services to take into account individual circumstances.

BE IT FURTHER RESOLVED that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

By Mailed Ballot
Place

September 30, 1991
Date

Submitted by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH) Chairperson
Craig Burgraff (PA)
Paul Buckley (MD)
Rafael Epstein (NY)
Byron Harris (WV)
Joseph Ingles (UT)
Bill Kowalski (CT)
Sandra Mattavous-Frye (DC)
Carl McIntosh (SC)
Robert Johnson (IN)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Opposing Ratepayer Funding of Natural Gas
Vehicles and Reaffirming Position On GRI Funding**

- WHEREAS, On July 25, 1990, the National Association of Regulatory Utility Commissioners (NARUC) passed a Resolution encouraging the development and widespread use of natural gas vehicles;
- WHEREAS, The NARUC Resolution encouraged Federal and State agencies and NARUC members to take necessary steps to promote the development and use of natural gas in the transportation sector to allow gas companies to make investments in necessary facilities;
- WHEREAS, The NARUC Resolution noted that natural gas vehicles can provide substantial benefits to the public and gas consumers in the form of air quality;
- WHEREAS, The NARUC Resolution, resolved in part that commissions should provide support for state legislative initiatives allowing financial incentives to governmental, public, and private fleet vehicle owners for converting fleets from diesel and gasoline to natural gas, and for utility and non-utility investments in natural gas vehicle fueling stations;
- WHEREAS, The National Association of State Consumer Advocates recognizes the potential societal benefits of natural gas vehicles in the form of improved air quality;
- WHEREAS, NASUCA also recognizes that a small class of gas customers will benefit directly from the research and development of natural gas vehicles (NGV);
- WHEREAS, However, the benefits from NGVs like other alternative fuels for transportation are speculative and remote as NARUC states in its Resolution (5-10 years in the future);
- WHEREAS, Promotion of NGVs should not be funded by monopoly service ratepayers;
- WHEREAS, The speculative nature of NGVs research and commission supported initiatives allowing financial incentives may result in residential and small commercial customers bearing all risks associated with this research and development. Local distribution company stockholders will be held harmless from a failed market effort;
- WHEREAS, Research and development programs, such as NGVs, designed with market development as a goal should not be ratepayer funded;

WHEREAS, Since the promotion of NGVs does not directly benefit ratepayers, as found by the United States Court of Appeals in *Process Gas Consumers v. Federal Energy Regulatory Commission*, 866 F.2d 470 (D.C. Cir. 1989), then funding should not be provided by ratepayers;

WHEREAS, Sale of compressed natural gas (CNG) to the general public for use in vehicles should compete with other vehicular fuels and should not be a monopoly utility service;

WHEREAS, NASUCA in its Resolution 1989-13 opposed ratepayer funding of Gas Research Institute (GRI) programs which do not directly benefit ratepayers, and NASUCA has urged this position before the FERC and the Congress;

THEREFORE BE IT RESOLVED that the National Association of State Utility Consumer Advocates (NASUCA) reaffirms its position on GRI funding;

BE IT FURTHER RESOLVED, that NASUCA call upon its members to urge its commissions to exclude all research and development and promotional costs associated with NGVs from the local distribution company cost of service;

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA

San Antonio, Texas
Place

November 13, 1991
Date

Submitted by:

District of Columbia Office of
the People's Counsel

and Favorably Reported by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH) Chairperson

Craig Burgraff (PA)

Paul Buckley (MD)

Rafael Epstein (NY)

Byron Harris (WV)

Joseph Ingles (UT)

William Kowalski (CT)

Sandra Mattavous-Frye (DC)

Carl McIntosh (SC)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Opposing Congressional Proposals That Would
Remove All FERC Authority To Consider The
Public Convenience And Necessity In Issuing
Certain Certificates To Construct And
Operate Natural Gas Facilities**

- WHEREAS, National Association of State Utility Consumer Advocates (NASUCA) represents ratepayers, including those residential and small commercial in nature, who purchase natural gas sold and transported in interstate commerce;
- WHEREAS, The sale and transportation of natural gas by interstate pipelines is regulated by the Federal Energy Regulatory Commission (FERC);
- WHEREAS, Construction and operation of facilities to provide natural gas service, including transportation, storage and sale of natural gas, is regulated by the FERC under the Natural Gas Act of 1938 (NGA), to ensure that consumers pay only just and reasonable rates for service that is in the public convenience and necessity;
- WHEREAS, A certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act confers the power of eminent domain on a certificate holder, within the limitations of federal and other environmental requirements;
- WHEREAS, Bills currently pending in the U.S. Congress would require the FERC to issue a certificate of public convenience and necessity to any person to construct and operate any facility for the transportation of natural gas, provided the applicant has contracted with the users of such facility at arm's length; and the costs of such operations are to be excluded from other rates;
- WHEREAS, The FERC would have no authority to review applications for such automatic certificates, nor to impose conditions in the public interest, including the protection of ratepayers who could be adversely affected by the operation of the proposed facilities;

WHEREAS, Costs and revenues associated with facilities so certificated would be largely or totally excluded from ratemaking and from FERC jurisdiction except for the purely ministerial certificate approval and certain complaints by potential competitors;

WHEREAS, Under such optional certificate procedures, interstate natural gas companies would have an incentive to seek optional certificates for highly profitable projects from which companies would retain all revenues. Conversely, interstate natural gas companies would have an incentive to obtain traditional certificates for less profitable or riskier projects, thereby attempting to shift the risks inherent in less attractive projects to natural gas ratepayers;

WHEREAS, Legislative provisions requiring the FERC to issue certificates of public convenience and necessity automatically, with no power of review as to true necessity, create the specter of inefficient and duplicative facilities;

WHEREAS, Legislation requiring the FERC to issue certificates of public convenience and necessity automatically, with no power of review for effect on ratepayers, would enable a dual natural gas system where jurisdictional ratepayers are subject to higher costs;

WHEREAS, NASUCA considers such provisions to be inimical to the protection of natural gas consumers from excessive rates;

WHEREAS, NASUCA does not oppose expedited approval of NGA Section 7 certificates, provided that adequate public notice of at least 60 days is given in the Federal Register, and affected parties as well as the FERC staff retain the right to seek modifications to prevent undue discrimination or unjust and unreasonable rate results;

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates opposes legislative provisions that would require the FERC to confer automatic certificates and remove the FERC's authority to examine whether projects for interstate transportation of natural gas are consistent with the requirements of the natural Gas Act that rates be non-discriminatory, just and reasonable;

BE IT FURTHER RESOLVED that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

San Antonio, Texas
Place

November 13, 1991
Date

Submitted by:

NASUCA Gas Committee

Committee Members:
Margaret Ann Samuels (OH) Chair
Craig Burgraff (PA)
Paul Buckley (MD)
Rafael Epstein (NY)
Byron Harris (WV)
Joseph Ingles (UT)
William Kowalski (CT)
Sandra Mattavous-Frye (DC)
Carl McIntosh (SC)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging the Federal Energy Regulatory Commission
and the Congress Not to Guarantee Full Recovery of
Pipeline Costs Resulting from Service Restructuring**

- WHEREAS, The Federal Energy Regulatory Commission (FERC), on April 8, 1992, issued Order No. 636, requiring interstate pipelines to restructure the services offered to their customers and declaring bundled sales service unlawful when offered by pipelines;
- WHEREAS, Pipeline restructuring proceedings pursuant to Order No. 636 will in many instances leave pipelines unable to resell gas supplies which they are contractually obligated to purchase from producers;
- WHEREAS, Order No. 636 guarantees pipelines 100 percent recovery from ratepayers of all costs prudently incurred in canceling or reforming producer contracts as a direct result of implementing the final rule;
- WHEREAS, Order No. 636 declares contracts for sales and transportation capacity on pipelines to be subject to restructuring without penalty pursuant to Section 5 of the Natural Gas Act (NGA);
- WHEREAS, Other costs incurred by pipelines directly because of Order No. 636, including investments no longer needed in providing restructured services, are also guaranteed 100 percent recovery;
- WHEREAS, FERC's finding that bundled sales service is unlawful under NGA Section 5, if upheld, should impel a similar finding that the purchased gas contracts which have supported that sales service are similarly unjust and unreasonable and may be rejected;
- WHEREAS, Producers whose gas sales contracts would be rejected under NGA Section 5 would continue to be able to sell the same gas supplies to willing buyers at market prices;
- WHEREAS, Many pipeline-producer gas contracts contain provisions enabling contract cancellation in the event of federal regulatory action affecting recovery of the purchased gas costs, sometimes called "regulatory-out clauses";

WHEREAS, Pipelines should be required to exercise regulatory-out clauses as well as taking all other feasible measures to mitigate costs of renegotiating producer contracts, in the event that they are forced to do so;

WHEREAS, Costs for facilities no longer used in providing pipeline services are not recoverable in rates under the Natural Gas Act;

WHEREAS, Requiring ratepayers to guarantee costs to pipelines and producers under Order No. 636 is unjust and discriminatory treatment, as the costs flow primarily to ratepayers, while benefits flow disproportionately to pipelines and producers;

THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) urges the FERC, the Congress and the Federal Government to adopt measures that avoid placing the full costs of Order No. 636 restructuring on ratepayers and to abide by the principles of the NGA, to void producer pipeline contracts under NGA section 5 where the service contract supporting those producer contracts have been voided, and to require just and reasonable rates only for pipeline services provided, including prudent actions to mitigate costs;

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the members of the FERC, and filed in Docket No. RP91-11-000;

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA

Washington, D.C.
Place

June 10, 1992
Date

Submitted and Favorably Reported by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH), Chair
Keith Beall (IN)
Craig Berg (NV)
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Byron Harris (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)
Carl McIntosh (SC)
Doug Micheel (MO)
Robert Mol (MI)
Frances Sundheim (NJ)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

Calling for the Federal Energy Regulatory Commission to Release the Results of Any Economic Impact Analysis It Has Undertaken with Respect to Order No. 636 and with Respect to the Notice of Proposed Policy Statement on Incentive Regulation, and to Further Undertake and Release an Analysis of the Economic Impacts of Order No. 636 and Incentive Regulation on Small Entities

- WHEREAS, The Federal Energy Regulatory Commission (FERC), on April 8, 1992, issued Order No. 636, requiring interstate pipelines to restructure the services offered to their customers and declaring bundled sales service unlawful when offered by the pipelines;
- WHEREAS, Order No. 636 provides for interstate pipelines recovery of 100% of prudently incurred contract realignment costs, 100% of stranded investment costs and 100% of the fixed costs of operating the pipeline;
- WHEREAS, FERC stated in Order no. 636 that the final rule contained therein would have no substantial economic impact on small entities and therefore no economic impact analysis would be prepared;
- WHEREAS, FERC, on March 13, 1992, issues a Notice of Proposed Policy Statement (NOPPS) on Incentive Regulation seeking comments on appropriate guidelines for incentive regulation programs for interstate pipelines, electric utilities and oil pipelines;
- WHEREAS, The National Association of Utility Consumer Advocates (NASUCA) submitted comments to FERC on April 27, 1992 requesting that FERC decline to implement incentive regulation policy statement or incentive regulation programs absent a clear and convincing showing that consumer benefits will result from implantation of such programs;
- WHEREAS, NASUCA further commented on the Incentive Regulation NOPPS that incentive regulation programs are unlikely to provide consumer benefits or achieve the FERC's envisioned productive efficiency goals;
- WHEREAS, FERC did not discuss in the Incentive Regulation NOPPS issues concerning the economic impacts of the NOPPS on the industry or on small entities;

- WHEREAS, The Regulatory Flexibility Act, 5 U.S.C. Sec. 601-612 (1988), requires all federal agencies implementing substantive rule changes to undertake economic impact analyses if the new rule imposes substantial economic impacts on small entities;
- WHEREAS, Executive Order No. 12291, issued by the President of the United States, also requires federal agencies undertaking substantial rule changes to conduct analyses of the economic impacts of the final rule on all segments of the regulated industry;
- WHEREAS, FERC has only publicly disseminated a summary of its economic impact analysis associated with implementation of Order No. 636 and released no analysis of the Incentive Regulation NOPPS, and it is therefore impossible to determine whether FERC has adequately studied the economic impact of Order No. 636 or the Incentive Regulation NOPPS on small entities;
- WHEREAS, The National Association Of State Utility Consumer Advocates (NASUCA), on May 8, 1992, filed a Request for Rehearing of Order No. 636 with FERC seeking, among other relief measures, the release of the results of FERC's economic impact analysis on small entities as required by the Regulatory Flexibilities Act;
- WHEREAS, Numerous small entities will be affected by Order No. 636 and any actions resulting from the Incentive Regulation NOPPS, including local distribution companies, municipal gas distribution systems, other public gas systems, small commercial consumers and residential consumers;
- WHEREAS, NASUCA argued in its Request for Rehearing on Order No. 636 that the final rule has significant potential for substantially eroding, if not eliminating, any positive economic benefits for residential and small commercial consumers as a result of the provisions guaranteeing recovery of 100% of prudently incurred contract realignment costs, 100% of stranded investment costs and 100% of fixed pipeline costs;
- WHEREAS, NASUCA further argued in its Request for Rehearing on Order No. 636 that Order No. 636 creates an unbalanced package of benefits tilted in favor of the pipeline and producer segments of the industry, thus imposing substantial adverse economic impacts on residential and small commercial consumers;
- WHEREAS, NASUCA argued in its comments on the Incentive Regulation NOPPS that incentive regulation programs have the potential for imposing substantially higher costs on residential for imposing substantially higher costs on residential and small commercial consumers that these consumers currently pay under cost of service regulation;

THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates calls on the Federal Energy Regulatory Commission to release the results of any economic impact analysis undertaken with respect to Order No. 636 and the Incentive Regulation NOPPS, and further to undertake and release an analysis of the economic impact of Order No. 636 and the Incentive Regulation NOPPS on small entities as required by the Regulatory Flexibility Act.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the members of the Federal Energy Regulatory Commission and filed in Docket No. RM91-11-000;

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Washington, D.C.
Place

June 10, 1992
Date

Submitted and Favorably
Reported by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH), Chair
Keith Beall (IN)
Craig Berg (NV)
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Byron Harris (WV)
Joe Ingles (UT)
Sandra Mattavous-Frye (DC)
Carl McIntosh (SC)
Doug Micheel (MO)
Robert Mol (MI)
Frances Sundheim (NJ)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Recommending Against Adoption by the Federal Energy
Regulatory Commission of an Incentive Regulation Policy Statement,
and Recommending Necessary Consumer Safeguards in the Event the
Policy Statement is Adopted**

- WHEREAS, The Federal Energy Regulatory Commission (FERC) issued on March 13, 1992, a Notice of Proposed Policy Statement on Incentive Regulation seeking comments on traditional cost of service regulation for companies with market power;
- WHEREAS, The National Association of State Utility Consumer Advocates (NASUCA), a national organization of state-designated consumer representatives whose purposes include enhancing members' impact on public policy at the state and federal levels, submitted comments in FERC Docket No. PL92-1-000, Incentive Ratemaking For Interstate Natural Gas Pipelines, Oil Pipelines and Electric Utilities;
- WHEREAS, NASUCA is concerned about the FERC's pursuit of incentive regulation alternatives for two primary reasons, namely, the lack of evidence suggesting that incentive regulation plans will or can lower costs to consumers by encouraging productive efficiencies for pipelines, and the lack of a need for incentive regulation in the new era of unbundled services and competition envisioned under Order No. 636;
- WHEREAS, Traditional cost of service regulation mimics the operation of competitive markets, since prices in competitive markets move toward the long run cost of production, including a reasonable rate of return;
- WHEREAS, Since the non-gas costs of gas pipelines declined 36% between 1984 and 1990 under traditional cost of service regulation (Interstate Natural Gas Association of America report, March, 1992, as quoted in Inside F.E.R.C., March 23, 1992), incentive regulation plans are likely to have little if any marginal impact on pipelines cost cutting activities;
- WHEREAS, To the extent that the costs of providing gas pipeline monopoly and competitive services are joint or common costs, a policy of permitting competition in those pipeline services subject to meaningful competition could provide benefits to all pipelines customers without the need for a formal incentive regulation plan;

- WHEREAS, Since the FERC's jurisdiction is over only about ten percent (10%) of the revenue of electric utilities, incentive regulation plans are likely to have little if any marginal impact on the cost cutting activities of electric utilities;
- WHEREAS, a complete separation of restructuring and incentive ratemaking proceedings is absolutely necessary to ensure that incentive ratemaking will comport with the legal requirements and policy statements as set forth in Order No. 636, to prevent a mixing of restructuring and incentive issues that may allow for the approval of an incentive plan that benefits only shareholders, and to allow for as much similarity as possible among the various incentive plans that may ultimately be approved;
- WHEREAS, Since some portion of pipelines' activities will take place in competitive markets, it is important, in order to prevent cross-subsidies and to avoid granting superfluous incentives, that any incentive plans considered be strictly limited to pipelines' monopoly businesses, primarily transportation and storage;
- WHEREAS, Since it is unlikely that incentive regulation will provide FERC-regulated utilities with greater incentives to be more efficient, companies proposing incentive regulation plans should be required to demonstrate the existence of a significant probability of consumer benefits (such as lower rates or improved services) before the FERC grants approval;
- WHEREAS, If the FERC implements an incentive regulation policy statement, it must contain the following: (a) a starting point based on a contemporaneous determination of revenue requirements using traditional rate of return regulatory principles; (b) adequate protections for captive customers; (c) increased rewards restricted to situations where risks increase; (d) periodic and timely review with necessary revisions of plan structures and operating aspects; (e) prohibitions against any discriminatory practices; (f) protections against degradations of service quality; (g) a sharing of only those excess earnings related to efficiencies generated by the incentive plan, with the balance of excess earnings flowing entirely back to ratepayers; (h) periodic reviews of the assumptions and costs to ensure that Natural Gas Act requirements for just and reasonable rates are satisfied; (i) application to only monopoly services to minimize or eliminate opportunities for cross-subsidy; and (j) reporting requirements that include all components of rate base, income expenses, and taxes, in order to permit an accurate determination of company earnings; reports on the sources and extent of productivity gains; and a time series of productivity ratios covering three or four years.

THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates urges that the FERC refrain from adopting incentive ratemaking plans, but that if FERC does adopt them, such adoption should not take place until after all restructuring issues under Order No. 636 are settled, nor should any plans be approved that do not include the consumer safeguards discussed herein.

BE IT FURTHER RESOLVED that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

Washington, D.C.
Place

June 10, 1992
Date

Submitted by:

NASUCA Gas Committee

Margaret Ann Samuels (OH), Chair
Craig Berg (NV)
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Byron Harris (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)
Carl McIntosh (SC)
Doug Micheel (MO)
Robert Mol (MI)
John Skomp (IN)
Frances Sundheim (NJ)

NASUCA Economics and Finance Committee

Philip Thompson (MO), Chair
David Bartolini (IN)
David Habr (IA)
Clarence Johnson (TX)
John Mapes (HI)
William Peloquin (MI)
Ross Pultz (OH)
Cynthia Schieber (IL)
Lawrence Thurston (DC)
Kenneth Traum (NH)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Opposing Unnecessary Government Restrictions
on Natural Gas Production**

- WHEREAS, Natural gas consumers benefit from access to competitive market supplies and the ability to purchase lower-priced natural gas without unnecessary restrictions on supply;
- WHEREAS, A competitive wellhead market for natural gas supply, together with open access to pipeline transportation of that competitive supply, were critical factors in Congress's enacting wellhead deregulation in 1989;
- WHEREAS, The Northeast-Midwest Congressional Coalition estimates that each five-cent increase in wellhead natural gas prices costs gas consumers an additional one billion dollars;
- WHEREAS, State or federal government restrictions on production of natural gas for the purpose of increasing wellhead gas prices conflict with federal competitive market goals and retreat from the free market pricing which has enabled consumer access to competitively priced gas supplies;
- WHEREAS, Government restrictions on natural gas production have been shown to serve the public interest only when applied for purposes of health and safety, geologic protection of underground reservoirs, preserving correlative rights of multiple owners of reservoir reserves, preventing waste and protecting natural resources and the environment;
- WHEREAS, Unnecessary state or federal government restrictions upon natural gas production, such as prorationing for the purpose of increasing wellhead prices by reducing supply, inhibit development and production of natural gas, would have a chilling effect on fuel supply decisions by end users, raising market stability questions about natural gas as an energy source precisely at the time when increased natural gas usage has become a key element of national energy strategy for environmental, energy security and economic development purposes;
- THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) opposes unnecessary government restrictions on natural gas production for the purpose of increasing wellhead prices above market levels;

BE IT FURTHER RESOLVED, that NASUCA urges the Congress of the United States to enact legislation as part of the National Energy Strategy legislation to prohibit unnecessary government restrictions on natural gas production for the purpose of increasing wellhead prices above market levels and permitting only necessary government restrictions on natural gas production which are in the public interest;

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA

Washington, D.C.
Place

June 10, 1992
Date

Submitted and Favorably Reported by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH), Chair
Keith Beall (IN)
Craig Berg (NV)
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Byron Harris (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)
Carl McIntosh (SC)
Doug Micheel (MO)
Robert Mol (MI)
Frances Sundheim (NJ)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Recognizing the Jurisdiction of State and Local Regulatory
Commissions Over Local Distribution Company Recovery
of Pipeline Transition Costs and That Order No. 636 Related
Transition Costs Are Not Cost of Gas**

- WHEREAS, The Federal Energy Regulatory Commission (FERC), on April 8, 1992, issued Order No. 636, requiring interstate pipelines to restructure the services offered to their customers and declaring bundled sales service unlawful when offered by pipelines;
- WHEREAS, Pipeline restructuring proceedings pursuant to Order No. 636 will in many instances leave pipelines unable to resell gas supplies which they are contractually obligated to purchase from producers;
- WHEREAS, Order No. 636 guarantees pipelines 100 percent recovery from ratepayers of all costs prudently incurred in canceling or reforming producer contracts as a direct result of implementing the final rule;
- WHEREAS, Other "transition costs" incurred by pipelines directly because of Order No. 636, including investments no longer needed in providing restructured services, are also guaranteed 100 percent recovery;
- WHEREAS, Transition costs are not a cost of gas, as the FERC itself has recognized;
- WHEREAS, The U.S. Department of Energy has requested comment on how state and local regulatory commissions could address transition costs passthrough;
- WHEREAS, State and local commissions should have flexibility in determining the proper regulatory treatment of transition costs billed to LDCs under Order No. 636, including the right to determine that both firm and interruptible customers as well as LDC shareholders should be allocated a portion of these costs;
- THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) strongly urges state regulatory commission to recognize the foregoing considerations in determining the proper regulatory treatment of transition costs billed under FERC Order No. 636, and in particular to recognize that contract renegotiation costs are not a cost of gas;

BE IT FURTHER RESOLVED, that NASUCA urges state regulatory commissions to establish equitable cost-sharing allocations to utility shareholders as well as among all classes of customers, recognizing that captive customers are not responsible for these costs;

BE IT FURTHER RESOLVED, that NASUCA urges the Congress of the United States to enact legislation if necessary to enable these actions by state commissions;

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA

Los Angeles, California
Place

November 16, 1992
Date:

Submitted and Favorably Reported by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH) Chair
Keith Beall (IN)
Craig Berg (NV)
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Byron Harris (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)
Carl McIntosh (SC)
Doug Micheel (MO)
Robert Mol (MI)
Frances Sundheim (NJ)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging The Federal Energy Regulatory Commission
To Allow Local Distribution Companies And State Commissions
Maximum Control In The Oversight of Capacity Release
Programs Under Order Nos. 636 and 636-A And
To Minimize The Interstate Pipeline's Ability To
Exercise Market Dominance In The Sale of Interruptible
Capacity In Competition With Released Firm Capacity**

- WHEREAS, The Federal Energy Regulatory Commission (FERC), on April 8, 1992, issued Order No. 636 requiring interstate pipelines to restructure the services offered to their customers and declaring bundled sales service unlawful when offered by pipelines;
- WHEREAS, Order No. 636 permits interstate pipeline customers such as local distribution companies (LDCs) to permanently or temporarily release firm pipeline capacity as a means of restructuring customer capacity entitlements in response to increased fixed costs imposed by Order No. 636 and increased competition for firm capacity as a result thereof;
- WHEREAS, FERC has required in Order Nos. 636 and 636-A that interstate pipelines retain maximum control over the firm capacity release mechanisms implemented pursuant to the Order No. 636 restructuring process by retaining control over the selection of the best offer posted for a proposed released capacity transaction;
- WHEREAS, FERC has, in Order No. 636-A, refused to exempt small volume transactions involving prearranged deals from the firm capacity release posting and bidding requirements;
- WHEREAS, FERC has announced in Order Nos. 636 and 636-A its intent to preempt state oversight of programs involving the release of interstate pipeline firm capacity by LDCs;
- WHEREAS, FERC, in Order Nos. 636 and 636-A, declared unlawful any future buy/sell arrangements involving the use of interstate pipeline capacity;
- WHEREAS, Many interstate pipelines and parties to the restructuring proceedings, in the compliance filings and in responses thereto, have failed to require, or opposed, blind posting of the price terms bid for released capacity;

- WHEREAS, Potential bidders for released capacity will have no incentive to bid prices for released capacity which reflect the actual value of that capacity to them and may engage in bidding wars by bidding one cent above the last highest bid for such released capacity absent a requirement that the bidding process reflect blind posting of the price bid;
- WHEREAS, Blind posting of prices bid for released capacity is absolutely essential to ensure that a) LDC customers are able to maximize revenues received through the capacity release mechanism and consequently offset increased demand costs resulting from the Order No. 636 restructuring process, and b) the potential bidders bid prices for such released capacity based on their actual valuation of that capacity;
- WHEREAS, Many interstate pipelines, during the restructuring negotiation process and in their restructuring compliance filings, propose to allocate no costs to interruptible transportation customers on the pipeline system, but to retain a substantial portion of revenues received from such interruptible customers;
- WHEREAS, An interstate pipeline's attempts to sell interruptible pipeline capacity in the post Order No. 636 world will result in direct competition with an LDC customer's attempt to sell its firm capacity on such pipeline on either a permanent or temporary basis through the capacity release mechanism;
- WHEREAS, Order Nos. 636 and 636-A effectively require firm customers on the interstate pipelines, such as LDCs, to guarantee the pipelines 100% recovery of the fixed costs of operating the pipeline through adoption of the Straight Fixed-Variable (SFV) method of cost allocation, cost classification and rate design;
- WHEREAS, Interstate pipelines would enjoy a competitive advantage over LDCs in the sale of the pipelines' interruptible capacity vis-a-vis the LDC's sale of released firm capacity by being able to recover 100% of fixed capacity costs from the LDC customers while at the same time retaining a substantial portion of interruptible revenues generated from such sales;
- WHEREAS, LDCs will be required to bear all the fixed costs of operating the pipeline but would be unable to compete on an even playing field with the pipelines in the sale of capacity;
- WHEREAS, FERC's attempts to eliminate or drastically limit state oversight of LDC actions in releasing firm interstate pipeline capacity result in unjust and unreasonable actions contrary to the consumer protection provisions of Sections 4 and 5 of the Natural Gas Act, 15 U.S.C. § 717 et seq. and likewise raise serious constitutional and preemption concerns over the division of state and federal jurisdiction;

WHEREAS, The pipelines' attempts to create a competitive advantage for their sale of interruptible capacity over the LDCs' sales of released firm capacity constitutes unjust, unreasonable and discriminatory action in violation of Sections 4 and 5 of the Natural Gas Act;

THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) urges FERC to reconsider and revise its final rule in Order Nos. 636 and 636-A to maximize state oversight of LDC actions in the capacity release program, to provide pipeline customers releasing such capacity the ability to select the best offer bid for such capacity; to exempt small volume transactions from the capacity release posting and bidding procedures; to require blind price bidding for released capacity; and to ensure that pipelines enjoy no competitive advantage in the sale of their capacity over the pipelines' customers release of capacity by, among other things, requiring pipelines to credit to firm customers substantially all of the revenues received by the pipeline from interruptible sales;

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of such positions and actions prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA

Los Angeles, California
Place

November 16, 1992
Date

Submitted and Favorably Reported by:

NASUCA Gas Committee

Committee Members:

Margaret Ann Samuels (OH) Chair
Keith Beall (IN)
Craig Berg (NV)
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Byron Harris (WV)
Joseph Ingles (UT)
Sandra Mattavous-Frye (DC)
Carl McIntosh (SC)
Doug Micheel (MO)
Robert Mol (MI)
Frances Sundheim (NJ)

- WHEREAS, FERC also found merit in the arguments posed by LDCs, consumer advocates and state commissions to credit a substantial share of such excess IT revenues back to the firm shippers who are in essence paying the capacity costs on the system through SFV rates in order to avoid providing unjust revenue windfalls to the pipelines;
- WHEREAS, FERC recognized the need to ensure that the pipelines' efforts to market IT capacity compete on an even playing field with the LDCs' efforts to market released firm capacity in order to mitigate the substantial increases in capacity costs for firm customers experienced under SFV rates;
- WHEREAS, FERC resolved these conflicting incentive and cost concerns in implementation of Order No. 636 by requiring interstate pipelines to share excess IT revenues with firm customers through a mechanism which credits 90% of excess IT revenues back to firm shippers and allows the pipelines to retain the remaining 10% of excess revenues;
- WHEREAS, Several interstate pipelines have recently attempted to circumvent this revenue sharing requirement by repackaging IT transactions as short term firm transportation ("ST FT") arrangements;
- WHEREAS, the conversion of former IT arrangements to ST FT transactions denies firm shippers the contribution of excess IT revenues as an offset against the cost shifting impacts of SFV rates and provides the pipelines an unintended and unjust windfall at firm shipper and captive consumer expense;
- WHEREAS, the conversion of former IT arrangements to ST FT transactions also tilts the competitive market for capacity sales in favor of pipeline IT marketing efforts and to the disadvantage of LDC capacity release efforts at firm shipper and captive consumer expense;
- THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates ("NASUCA") urges FERC to extend the revenue sharing mechanism for interruptible transportation transactions to short term firm transportation transactions to ensure that competition for capacity between interruptible transactions and released capacity transactions remains on a level playing field and to ensure that pipelines do not receive unintended and unjust revenue windfalls at firm shipper and captive consumer expense.

BE IT FURTHER RESOLVED, that NASUCA authorize its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

New York, New York
Place

November 15, 1993
Date

Submitted by:

NASUCA Gas Committee

Margaret Ann Samuels (OH), Chair
Keith Beall (IN)
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Denise C. Goulet (PA)
Shirley Guntharp (AR)
Byron Harris (WV)
Carl McIntosh (SC)
Doug Micheel (MO)
Garth Morrisette (MN)
Jeff Taylor (NM)
Chris Van Dyke (NV)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging the Federal Energy Regulatory Commission
to Reject Interstate Pipeline Efforts to
Write Down the Value of Investment in
Uneconomical Facilities and Attempts
to Treat such Costs as Eligible for
Recovery as Stranded Investment Under Order No. 636**

- WHEREAS, the Federal Energy Regulatory Commission (FERC") attempted in Order No. 636 to encourage a more competitive market for wellhead sales of natural gas supply by providing all potential buyers of natural gas with realistic opportunities for access to the interstate pipeline transmission grid;
- WHEREAS, FERC sought to accomplish this goal by requiring the unbundling of the interstate pipelines' merchant, production, transportation, gathering, products extraction and storage functions to ensure that all shippers have access to services they need to deliver natural gas from producing areas to their markets;
- WHEREAS, during the rulemaking process which resulted in Order No. 636, FERC determined that the unbundling requirement could result in the stranding of pipeline investment in certain facilities on some pipeline systems; which would then be unable to recover the costs of investments undertaken for customers who will potentially benefit from the unbundling process;
- WHEREAS, FERC defined "stranded investment" in Order No. 636-A as investment which is no longer used and useful in providing utility service to consumers as a result of compliance with the Order No. 636 unbundling requirements;
- WHEREAS, in implementing Order No. 636's unbundling requirements, some pipelines, have argued that while they continue to use certain gathering, production and products extraction facilities, the requirement for unbundled rates for such services makes certain gas supplies on these systems uncompetitive with other sources of gas due to substantial increases in the rates for these newly unbundled services;

- WHEREAS, FERC orders have expressed interest in the pipelines' arguments that they should be allowed to write down the value of their investment in these uneconomic facilities, even though such facilities are still used and useful, and to treat such costs as stranded investment costs under Order No. 636;
- WHEREAS, Order No. 636 guarantees pipelines recovery of 100% of the costs of stranded investment from firm shippers on the system;
- WHEREAS, local distribution companies ("LDCs") comprise the vast majority of firm shippers on most pipeline systems;
- WHEREAS, LDCs generally serve captive retail markets comprised largely of residential and small commercial consumers;
- WHEREAS, a policy of allowing pipelines to write down the value of their investment in uneconomical, yet still used and useful, facilities and treating the resulting costs as stranded investment costs eligible for recovery under Order No. 636 violates sound ratemaking principles which require that pipelines be provided an opportunity to earn a reasonable return on investment over the useful service life of the investment;
- WHEREAS, a policy of allowing pipelines to write down the value of their investment in uneconomical, yet still used and useful, facilities and treating the resulting costs as stranded investment costs eligible for recovery under Order No. 636 creates intergenerational inequities and results in discriminatory treatment of today's consumers in favor of future consumers by requiring today's consumers to pay for 100% of the investment in facilities which will still be used to serve consumers for the next 60 to 80 years;
- WHEREAS, such unjust and discriminatory shifting of costs from future consumers to today's consumers has the potential to result in substantial increases in costs and rates for firm shippers and the captive consumers they serve in today's markets;
- WHEREAS, a policy which would allow recovery of such uneconomical, yet still used and useful, investment costs as stranded investment costs under Order No. 636 would violate Order No. 636's goal of fostering a competitive market for natural gas supply by providing cost subsidies and thus competitive advantages to certain natural gas suppliers to the disadvantage of other natural gas suppliers.

WHEREAS, such subsidies for certain natural gas suppliers would mask the accuracy of competitive market price signals for all sources of supply to the detriment of the firm shippers and the captive consumers served by these shippers who would bear the costs of such subsidies and forego potentially less expensive sources of supply;

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates ("NASUCA") urges FERC to reject interstate pipeline efforts to write down the value of their investment in uneconomical, yet still used and useful, facilities and further reject interstate pipeline efforts to treat such costs as eligible for recovery as stranded investment costs under Order No. 636;

BE IT FURTHER RESOLVED, that NASUCA authorize its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

New York, New York
Place

November 15, 1993
Date

Submitted by:

NASUCA Gas Committee

Margaret Ann Samuels (OH), Chair
Keith Beall (IN)
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Denise C. Goulet (PA)
Shirley Guntharp (AR)
Byron Harris (WV)
Carl McIntosh (SC)
Doug Micheel (MO)
Garth Morrisette (MN)
Jeff Taylor (NM)
Chris Van Dyke (NV)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Opposing the Imposition of Royalty
Fees on Pipeline Payments for Take-or-Pay
Buyouts and Contract Renegotiation**

WHEREAS, interstate natural gas pipeline have been required by the actions of the Federal Energy Regulatory Commission (FERC) and by market forces to buy out, buy down, and renegotiate so-called take-or-pay provisions in the pipelines' gas supply contracts with gas producers; these provisions committed pipelines to gas purchases at above-market prices;

WHEREAS, the payments from pipelines to producers for take-or-pay buyouts and contracts renegotiations involved no purchases or payments for production of natural gas;

WHEREAS, both the FERC and federal courts have affirmed that take-or-pay buyouts and similar contracts renegotiation payments are not gas costs;

WHEREAS, certain royalty owners, and in particular the United States Department of the Interior, have claimed that royalty payments are due from payments received by producers for take-or-pay buyouts and similar contract renegotiations;

WHEREAS, certain take-or-pay buyout and other similar agreements between producers and pipelines require the pipeline to indemnify the producer for any additional royalty payments resulting from the agreement;

WHEREAS, the FERC in Order No. 528 permits pipelines to recover from ratepayers fifty percent or more of payments to producers for take-or-pay type contracts renegotiations;

WHEREAS, inclusion in natural gas rates of potentially hundreds of millions of dollars in new take-or-pay costs will impair the competitiveness of natural gas as a fuel and will injure residential and other captive natural gas consumers;

WHEREAS, the National Association of State Utility Consumer Advocates (NASUCA) concurs that payment to buyout or modify take-or-pay or other contract obligations are not gas purchase costs and should not give rise to royalty obligations related to gas production;

THEREFORE BE IT RESOLVED, that NASUCA calls upon the U.S. Department of the Interior to rescind its policy of requiring royalty payments from natural gas producers for amounts the producers have received for renegotiating purchase contract obligations, where no gas was produced in exchange for the payments;

BE IT FURTHER RESOLVED, that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

New York, New York
Place

November 15, 1993
Date

Submitted by:

NASUCA Gas Committee

Margaret Ann Samuels (OH), Chair
Keith Beall (IN)
Paul Buckley (MD)
Craig Burgraff (PA)
Rafael Epstein (NY)
Denise C. Goulet (PA)
Shirley Guntharp (AR)
Byron Harris (WV)
Carl McIntosh (SC)
Doug Micheel (MO)
Garth Morrisette (MN)
Jeff Taylor (NM)
Chris Van Dyke (NV)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Opposing the Formation of a
Gas Industry Standards Board ("GISB")
That Would Require Mandatory
Participation, Extend Beyond a Two Year Period,
or Involve a Broader Scope of Issues
than Electronic Data Interchange**

WHEREAS, Order No. 636 issued by the Federal Energy Regulatory Commission ("FERC") requires interstate pipelines to unbundle sales service from other pipeline services such as transportation and storage;

WHEREAS, as a result of Order No. 636, local distribution companies ("LDCs") now have to contract separately for gas supply with producers and other suppliers and match that supply with interstate pipeline capacity in order to move the gas to market;

WHEREAS, as a result of Order No. 636's restructuring of the natural gas industry, a secondary market for pipeline capacity has emerged through which LDCs can release capacity on either a permanent or temporary basis in an effort to shed excess capacity and to lower costs for consumers;

WHEREAS, as a result of the comprehensive restructuring of business interactions among pipelines, LDCs and producers and the emergence of a secondary market for capacity, many in the industry have perceived a need for sophisticated electronic data interchange through electronic bulletin boards ("EBBs");

WHEREAS, FERC on December 23, 1993, issued a final rule adopting certain methods of standardizing some issues with respect to electronic data interchange;

WHEREAS, between July, 1993 and May, 1994 various segments of the natural gas industry met to form a Gas Industry Standards Board ("GISB") to address standardization for the industry of various issues concerning electronic data interchange;

WHEREAS, interstate pipelines, LDCs, producers, marketers, information software providers, gas gatherers, gas processors, end users and others participated in the debate over the formation of GISB;

WHEREAS, several participants in those meetings acknowledged a need for standardization of electronic data interchange in an effort to make a successful transition to an unbundled world for pipeline services, but also acknowledged state regulatory concerns with respect to the potential for GISB to interfere with state and federal exercise of ratemaking and regulatory policy;

WHEREAS, other participants in those meetings sought to form GISB with mandatory application of any standards adopted, with a corporate life of unlimited duration, with authority to address a broad range of issues which extend well beyond electronic data interchange issues, and with an intent to by-pass a federal and state regulatory scheme which these participants perceived as too slow to respond to the industry's needs;

WHEREAS, the current format for the development of GISB contemplates only an advisory role, as opposed to a voting membership role, for governmental agencies and non-profit organizations representing small consumers;

WHEREAS, although the current consensus is for formation of a voluntary, limited-scope GISB, several parties participating in the formation process have announced their intentions to broaden both the scope and corporate life of GISB, as well as move toward mandatory participation in GISB and a more formal interaction with federal and state regulatory authorities;

WHEREAS, consumers have experienced situations in which other private industry standards boards, such as the Financial Accounting Standards Board ("FASB"), have encroached on the regulatory jurisdiction of FERC and the state utility regulatory commissions resulting in ratemaking being directly affected by non-regulatory entities who have no small consumer representatives;

WHEREAS, FASB's interference in the regulatory process has resulted in consumers paying substantial increases in rates;

WHEREAS, a potential exists for GISB to likewise encroach into the arena of regulatory policy and ratemaking that more appropriately belongs within the jurisdiction of governmental regulatory agencies who are subject to administrative due process mandates and charged by statute to protect all consumer interests;

WHEREAS, any encroachment by GISB into regulatory matters could result in higher rates for small consumers, especially considering that small consumers have no voting voice in GISB;

WHEREAS, pipeline and LDC expenditures for participation in GISB should receive no special regulatory treatment but should be treated as are other expenses for ratemaking purposes;

WHEREAS, ratemaking recognition of GISB expenditures may be improper if GISB programs would operate to displace regulatory actions;

THEREFORE BE IT RESOLVED that the National Association of State Utility Consumer Advocates ("NASUCA") questions the need for GISB considering the FERC's final rule adopting standards to govern electronic data interchange, calls upon GISB and on FERC and the state commissions to recognize the potential for GISB to encroach upon the regulatory and ratemaking authority of federal and state agencies and to ensure that any standards adopted by GISB would not dictate ratemaking or other utility regulatory policy at either the federal or state level;

BE IT FURTHER RESOLVED that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

Santa Fe, New Mexico
Place

June 21, 1994
Date

Submitted by:

NASUCA Gas Committee

Craig R. Burgraff (PA), Chair
Paula Carmody (MD)
Ann Curtin (NY)
Kit Earle (IN)
Peter Elkema (NV)
Peggy Force (NC)
Charles Fuhrman (IA)
Denise C. Goulet (PA)
Shirley Guntharp (AR)
Byron Harris (WV)
Carl McIntosh (SC)
Garth Morrisette (MN)
Pamela Robinson (AL)
Margaret Ann Samuels (OH)
Karen Sistrunk (DC)
Jeff Taylor (NM)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Regarding the Duty to Mitigate Costs
to Local Distribution Companies' Firm
Sales Customers through the Use of
FERC Order 636's Capacity Release Mechanism**

WHEREAS, the Federal Energy Regulatory Commission ("FERC"), on April 8, 1992, issued Order No. 636 requiring interstate pipelines to restructure the services offered to their customers and declaring bundled sales service unlawful when offered by pipelines,

WHEREAS, FERC Order 636 created a firm interstate pipeline transportation capacity release mechanism, creating a secondary market and enabling primary holders of such capacity to resell such capacity when it is not otherwise needed for the primary holder's requirements,

WHEREAS, most natural gas Local Distribution Companies ("LDCs") retain significant amounts of firm interstate pipeline capacity to serve their firm sales customers' requirements in a reliable manner,

WHEREAS, under FERC Order 636, all pipeline fixed costs are recovered through fixed demand charges for firm interstate pipeline capacity under the Straight Fixed-Variable ("SFV") method of rate design,

WHEREAS, utilization of an SFV method of rate design tends to shift greater costs to primary holders of capacity than had previously been allocated prior to FERC Order 636,

WHEREAS, the costs of firm interstate pipeline capacity are passed through to the LDCs' firm sales customers,

WHEREAS, the secondary market for capacity, or the capacity release market, enables LDCs to mitigate the costs of that capacity and ameliorate the impact of the SFV method of rate design on their firm sales customers,

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates calls upon state public utility commissions to ensure that all capacity release revenues are credited to the firm sales customers who pay for those costs;

BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates calls upon state public utility commissions to ensure that the maximum amount of capacity is released at the maximum price obtainable consistent with the LDCs' duties to maintain reliable service;

BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates calls upon state public utility commissions to ensure that capacity is not utilized to provide service to an LDCs interruptible customers or transportation service customers unless a credit for purchased gas costs is obtained consistent with the maximum price obtainable for capacity in the capacity release market;

BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates calls upon state public utility commissions to reject any proposal to reward LDCs with a financial incentive for performing their duty to mitigate costs by maximizing capacity release revenues.

Approved by NASUCA

Reno, Nevada
Place

November 15, 1994
Date

Submitted by:

NASUCA Gas Committee

Craig R. Burgraff (PA), Chair
Margaret Ann Samuels (OH)
Paula Carmody (MD)
Anne Curtin (NY)
Kit Earle (IN)
Peter Eelkema (NV)
Peggy Force (NC)
Charles Fuhrman (IA)
Alana Gayle (DC)
Denise C. Goulet (PA)
Shirley Guntharp (AR)
Byron Harris (WV)
Hannah Williamson (SC)
Garth Morrisette (MN)
Pamela Robinson (AL)
Karen Sistrunk (DC)
Jeff Taylor (NM)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Calling Upon the Federal Energy Regulatory Commission
to Retain Its Policy of Incremental Pricing for
Incremental Capacity Expansion Projects and to
Investigate Solutions Other Than Rolled-In Pricing
for the Problem of Pricing Released Incremental
Capacity, Including, but Not Limited to,
Elimination of Price Caps in the Secondary Capacity Market**

- WHEREAS, interstate pipelines are required by the Natural Gas Act ("NGA"), 15 U.S.C. § 717f (Section 7) to file an application with the Federal Energy Regulatory Commission ("FERC") for a certificate for capacity expansion projects;
- WHEREAS, FERC has historically adopted a policy of approving such projects involving incremental load by requiring incremental pricing for incremental services;
- WHEREAS, FERC has historically made the decision whether to approve rolled-in rates for an incremental capacity expansion project not in a certificate proceeding under Section 7 of the NGA, but rather in a subsequent general rate proceeding under Section 4 of the NGA because rolling in incremental costs into overall system rates would affect existing customers who may not be parties to the certificate proceeding and would involve traditional rate case issues such as proper cost allocations and rate design;
- WHEREAS, projects involving major expansion to pipeline systems frequently qualify for rolled-in pricing where the facilities are part of the integrated system and provide commensurate system-wide benefits;
- WHEREAS, parties seeking access to an interstate pipeline's system as an incremental customer through discrete expansion projects often seek to obtain system average rates for service by having the costs of the incremental facilities rolled into the overall rates of the pipeline for all existing customers;
- WHEREAS, Order No. 636 issued by FERC in April, 1992 dramatically changed the nature of the business dealings between interstate pipelines and their customers by unbundling all pipeline services, including sales, transportation and storage;

WHEREAS, Order No. 636 created a secondary market for interstate pipeline capacity through the pipelines' capacity release programs;

WHEREAS, FERC, through Order No. 636, attempted to create a system of regulation for the natural gas industry guided by principles of economic efficiency as a means of freeing up interstate pipeline capacity for those desiring such capacity;

WHEREAS, FERC's primary goal underlying Order No. 636 is the promotion of sales of natural gas through a competitive market;

WHEREAS, as a result of the interaction between the pipelines' desire to expand into new markets and FERC's historical policy of requiring incremental pricing for incremental capacity expansion projects, FERC has embarked upon an inquiry into the propriety of the continued use of an incremental pricing policy;

WHEREAS, as a result of the current FERC policy of capping rates for capacity release transactions at the maximum firm transportation rate for such capacity, FERC has perceived a potential disparity between the price for released existing capacity and the price for released incremental capacity that could cause substantial problems in packaging several capacity segments into a single release transaction, including the problem of pricing such capacity releases.

WHEREAS, residential and small commercial consumers tend to be historical consumers on the interstate pipeline systems;

WHEREAS, as historical or existing customers, residential and small commercial consumers will see dramatic increases in rates if FERC abandons its policy of incrementally pricing incremental capacity by rolling the much higher costs of all capacity expansion projects into existing average system rates;

WHEREAS, the majority of the potential customers on incremental capacity segments who stand to benefit from a rolled-in pricing policy are the emerging electric and cogeneration markets;

WHEREAS, adoption of a systematic policy favoring rolled-in rate treatment for incremental capacity expansion projects through predeterminations of rate treatment in Section 7 certificate proceedings further burdens residential and small commercial consumers by requiring these consumers to expend resources to intervene in every certificate proceeding filed by interstate pipelines serving their needs without a determination whether existing customer benefit;

WHEREAS, adoption of a systematic policy favoring rolled-in rate treatment for incremental capacity expansion projects undermines FERC's goal of promoting economically efficient markets for pricing natural gas supply and capacity transactions by subsidizing incremental customers at the expense of existing customers without a determination whether existing customers benefit;

WHEREAS, FERC should not adopt a policy favoring expansion of natural gas markets at any cost;

WHEREAS, FERC should more fully investigate possible solutions to the problem of interrelating the capacity release programs with an incremental pricing policy other than rolled-in rate treatment for incremental capacity expansion projects, including, but not limited to, elimination of price caps on the secondary capacity market;

THEREFORE BE IT RESOLVED that the National Association of State Utility Consumer Advocates (NASUCA) calls upon FERC to retain its historical policy requiring incremental pricing for incremental capacity in Section 7 certificate filings subject to review in subsequent Section 4 rate proceedings under the Natural Gas Act;

BE IT FURTHER RESOLVED that NASUCA calls upon FERC to investigate solutions to the capacity release problems involved with releases of incremental expansion project capacity other than rolled-in rate treatment for such capacity, including, but not limited to, the possibility of eliminating price caps on the secondary capacity market;

BE IT FURTHER RESOLVED that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

Reno, Nevada
Place

November 15, 1994
Date

Submitted by:

NASUCA Gas Committee

Craig R. Burgraff (PA), Chair
Margaret Ann Samuels (OH)
Paula Carmody (MD)
Anne Curtin (NY)
Peter Eelkema (NV)
Peggy Force (NC)
Charles Fuhrman (IA)
Alana Gayle (DC)
Denise C. Goulet (PA)
Shirley Guntharp (AR)
Byron Harris (WV)
Hannah Williamson (SC)
Garth Morrisette (MN)
Pamela Robinson (AL)
Karen Sistrunk (DC)
Jeff Taylor (NM)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging the Federal Energy Regulatory Commission
to Prohibit Negotiated/Recourse Rates in Non-Competitive
Markets or, If Negotiated/Recourse Rates Are Allowed, to
Protect Consumers by Prohibiting Cross-Subsidies, Allowing Ease
of Market Exit and Limiting Negotiations to Rate Terms**

WHEREAS, The Federal Energy Regulatory Commission ("FERC") issued a Statement of Policy and Request for Comments on February 7, 1996 in Docket Nos. RM95-6-000 and RM96-7-000 which allows pipelines to negotiate rates for pipeline services on an individual customer basis in non-competitive markets so long as the customers have recourse to a cost-of-service based rate and which seeks comments on whether FERC should extend the ability to negotiate service contracts in non-competitive markets to non-rate terms and conditions;

WHEREAS, FERC's decision to authorize negotiated/recourse rates in non-competitive markets is premised on a belief that the use of the straight-fixed variable ("SFV") rate design has resulted in very high rates for pipeline service thus requiring more flexibility for customers in structuring the services they receive from interstate pipelines in non-competitive markets and on the belief that the existence of recourse rates will mitigate the pipeline's ability to wield market power in non-competitive markets;

WHEREAS, FERC's primary responsibility under the Natural Gas Act ("NGA") is not to protect interstate pipelines from the greater risks stemming from attempts to introduce greater flexibility in non-competitive markets, but to protect natural gas consumers from the ability of interstate pipelines to wield market power over the rates and terms and conditions for pipeline services;

WHEREAS, the negotiated/recourse rate policy contradicts FERC's statements in *Louisville Gas and Electric Company*, Docket No. ER92-553-000, 62 FERC ¶ 61,016 at 61,143, footnote 15 on an analogous issue that electric consumers' recourse to avoided cost rates validated rather than mitigated the exercise of market power by electric utilities;

WHEREAS, the policy of allowing pipelines in non-competitive markets to negotiate rates with customers runs afoul of the consumer protection mandates in the NGA since the policy ensures that only large customers with negotiating leverage will benefit from lower rates while leaving the vast majority of captive customers with the higher cost-of-service based rates, thus allowing undue discrimination between customers for rates and services in violation of Section 4 of the NGA and in violation of judicial mandates in *Maryland Peoples Counsel v. FERC*, 761 F.2d 780 (D.C. Cir. 1985) that all consumers should benefit from access to competitively priced natural gas services;

WHEREAS, the policy of allowing pipelines in non-competitive markets to negotiate rates with customers raises the risk that pipelines will seek to subsidize below-cost negotiated rates by shifting the discounts stemming from such negotiated rates to captive customers paying cost-of-service or recourse rates;

WHEREAS, allowing cross-subsidies between recourse rate customers and negotiated rate customers will result in significant rate increases for captive consumers, thus further exacerbating the problem of high rates under SFV rate design, and allow pipelines to subsidize competitive offerings with monopoly services;

WHEREAS, FERC should prohibit any cross-subsidies between negotiated rate and recourse rate customers in order to protect captive consumers from the pipelines' abilities to wield market power in non-competitive markets;

WHEREAS, in the event FERC refuses to adopt an outright ban on cross-subsidies between negotiated rate and recourse rate customers, FERC should provide consumers with advanced notice of its intended policy as it did with respect to the pricing of capacity expansion projects in Docket No. PL94-4-000, *Pricing Policy for New and Existing Facilities Constructed by Interstate Natural Gas Pipelines*, 71 FERC ¶ 61,241 (1995), by establishing a rebuttable presumption prohibiting cross-subsidies between negotiated rate and recourse rate customers;

WHEREAS, FERC's policy in Order No. 636 of requiring customers to retain existing levels of contract entitlements for the remaining term of existing service contracts results in recourse customers being unable to exit their contracts in response to a significant change in their rates, terms and conditions of service if negotiated/recourse rates are adopted;

WHEREAS, allowing negotiated rates in non-competitive markets is unnecessary since existing mechanisms under Order No. 636 already allow pipeline customers flexibility in negotiating price terms and conditions of service under the right of first refusal and capacity release mechanisms;

WHEREAS, allowing the negotiation of non-rate terms and conditions for service would represent a dramatic step back from the policy advanced in Order No. 636 of attempting to place all customers on an equal footing with respect to terms and conditions for pipeline services and violate the undue discrimination provisions in Sections 4 and 5 of the NGA;

WHEREAS, FERC should instead pursue a policy which allows all customers to pursue greater flexibility in service contracts by requiring pipelines to expand their current service offerings to include more flexibility in storage and pipeline service contracts, *e.g.* more hourly, daily and seasonal flexibility in contract terms;

WHEREAS, FERC's proposed procedure of allowing negotiated rates to go into effect not subject to refund and subject only to a NGA Section 5 complaint proceeding which entails only prospective relief fails to provide sufficient protection for captive consumers against undue discrimination and unjust and unreasonable rates since the policy provides no refund protection and shifts the burden of proof from the pipelines to captive consumers;

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the FERC to reconsider its negotiated/recourse rate policy and prohibit negotiated/recourse rates in non-competitive markets;

BE IT FURTHER RESOLVED, that in the event FERC decides to continue to pursue the negotiated/recourse rate policy, FERC should prohibit any cross-subsidies between negotiated rate and recourse rate customers, should allow recourse rate customers ease of exit from existing service contracts, should prohibit the negotiation of non-rate terms and conditions for service; should instead require all pipelines to expand current service offerings to include more flexibility in existing terms and conditions for service and should only allow negotiated rates into effect subject to refund and NGA Section 4 rate reviews.

RESOLUTION 1996-01

Page 4

BE IT FURTHER RESOLVED, that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

By Faxed Ballot
Place

May 29, 1996
Date

Submitted by:

NASUCA Gas Committee

Committee Members:

Craig R. Burgraff (PA), Chair
Denise C. Goulet(PA)
Paula Carmody(MD)
Byron Harris(WV)
Werner Margard(OH)
Judith Appel (NJ)
Barbara Burton (DC)
M. Shawn McMurray (AR)
Doug Micheel (MO)
Ron Polle (IA)
Richard Steeves (CT)
Jim Stetson (MA)
Dianne Wells (CO)
Eric Witkowski (NV)
Hana Williamson (SC)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging State Authorities to Take Steps to Prevent Unfair
and Deceptive Acts or Practices by Local Distribution Companies, Their
Affiliates, Their Subsidiaries, and Marketers or Brokers of Gas
Services in the Emerging Competitive Gas Market**

WHEREAS, legal, regulatory and market forces are driving the pricing and provision of gas services in the United States; and

WHEREAS, the unbundling of interstate pipeline services as a result of the Federal Energy Regulatory Commission's (FERC's) implementation of Order No. 636 has precipitated moves at the state level to unbundle gas services currently being provided to retail gas customers by local distribution companies; and

WHEREAS, regulators in several states already have expanded the availability of transportation services for non-residential customers, and either encouraged or sanctioned the unbundling of sales, transportation and other gas-related services for residential customers, and there are limited programs for residential customers in certain states; and

WHEREAS, it is expected that activities of gas sellers, marketers, and brokers, and marketing activities of local distribution companies (LDCs) or their affiliates will increase significantly with the onset of unbundling of gas services, and the availability of gas purchase options from third-parties; and

WHEREAS, as a result of unbundling of gas services at the state level, gas customers may be faced with a variety of vendor choices with regard to the purchase of gas and other gas services; and

WHEREAS, it is anticipated that as the unbundling of gas services expands, and vendors solicit gas sales contracts from additional customers, customers may be subjected to unfair and deceptive acts or practices and anti-competitive practices with regard to gas sales and other service contracts; and

WHEREAS, consumers may not be adequately protected in the new competitive arena because gas sellers, marketers and brokers may not be subject to the regulatory authority of state commissions; and

WHEREAS, there may be inadequate protections for consumers in the event of unfair or deceptive solicitation, billing and collection activities because exiting state consumer protection laws may not be sufficiently inclusive of the selling activities of gas sellers, brokers and marketers; and

WHEREAS, unfair and deceptive acts or practices in the unbundled gas services market would lead to many of the same consumer problems experienced by customers in the long distance and information service segments of the telecommunications industry, as described in NASUCA Resolution 1995-04.

THEREFORE, BE IT RESOLVED, that NASUCA calls upon state authorities to enact policies and safeguards in the emerging competitive gas market that fully protect customers and ensure consumer choice; and

BE IT FURTHER RESOLVED, that NASUCA calls upon state authorities to take steps to prevent unfair and deceptive acts or practices in the emerging competitive gas market, including the enforcement of existing consumer protection laws with regard to the activities of unregulated entities, and the application of state regulatory enforcement authority to the activities of regulated entities; and

BE IT FURTHER RESOLVED, that NASUCA urges state authorities, including legislators, regulators, state Attorney Generals and other state agencies with consumer protection responsibilities to (1) conduct a review of existing laws and regulations to determine the appropriate spheres of authority concerning the activities of seller, brokers and marketers of gas sales and other services, and (2) to seek the enactment of any laws or regulations deemed necessary to ensure full and adequate protection of customers; and

BE IT FURTHER RESOLVED, that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking action if possible. In any event, the Executive Committee shall notify the membership of any action pursuant to this resolution.

Approved by NASUCA:

June 25, 1996
Date

Chicago, Illinois
Place

Submitted by:

NASUCA Gas Committee

Craig R. Burgraff (PA), Chair
Judith Appel (NJ)
Barbara Burton (DC)
Paula Carmody (MD)
Denise C. Goulet (PA)
Byron Harris (WV)
Werner Margard (OH)
M. Shawn McMurray (AR)
Doug Micheel (MO)
Ron Polle (IA)
Richard Steeves (CT)
Jim Stetson (MA)
Dianne Wells (CO)
Hana Williamson (SC)
Eric Witkowski (NV)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging the Federal Energy Regulatory Commission
To Reject Any Proposed Funding Proposals
For The Gas Research Institute Which Do Not
Equitably Spread GRI's Funding Costs Across
All Industry Segments And/Or Which Inhibit
The Competitive Market Goals In Order No. 636**

- WHEREAS, the Gas Research Institute ("GRI") performs research and development for the natural gas industry and is controlled by a Board of Directors composed of interstate natural gas pipelines;
- WHEREAS, GRI, in past years, has funded its research and development activities through interstate pipeline assessments approved by the Federal Energy Regulatory Commission ("FERC") and recovered from interstate pipeline customers;
- WHEREAS, the GRI has found it increasingly difficult in the competitive market for natural gas supply to obtain interstate pipeline participation in the funding of GRI's research and development programs absent a guarantee that 100% of the pipeline's share of GRI's costs are recoverable from pipeline customers;
- WHEREAS, GRI's 1998/1999 funding proposal breaks research and development costs into two categories: a Pipeline and Producer Subprogram and a Local Distribution Company ("LDC") Subprogram;
- WHEREAS, GRI proposes in the 1998/1999 funding mechanism to assess the Pipeline and Producer Subprogram costs to all pipeline shippers who pay non-discounted commodity charges;
- WHEREAS, the pipeline customers who pay non-discounted commodity charges are largely LDCs serving captive residential and small commercial consumers;
- WHEREAS, these LDCs and their captive residential and small commercial consumer consequently will pay the bulk of the Pipeline and Producer Subprogram costs;
- WHEREAS, GRI further proposes to assess the LDC Subprogram costs to all volumes of gas passing through an LDC's city gate regardless of who owns title to the gas;

- WHEREAS, GRI's proposed 1998/1999 funding proposal for the LDC Subprogram costs similarly places the bulk of these program costs on non-competitive residential and small commercial consumers because the proposal requires direct assignment to the LDCs of the portion of the costs otherwise attributable to competitive customers served behind the LDC's city gate;
- WHEREAS, most LDCs also discount rates to competitive customers and seek to pass the discounts through to non-competitive residential and small commercial consumers;
- WHEREAS, the interstate pipelines who control GRI's Board of Directors would have no financial stake in GRI's program costs if GRI's 1998/1999 funding proposal is accepted by FERC and would become nothing more than collection agents for GRI;
- WHEREAS, GRI's 1998/1999 funding proposal effectively results in direct assignment by GRI of its program costs to LDCs and thus constitutes a proposal over which FERC no longer has any justifiable claim to jurisdiction;
- WHEREAS, GRI's 1998/1999 funding proposal unduly discriminates against residential and small commercial consumers by imposing the bulk of the research and development program costs on this segment of the industry while all other segments of the industry, including producers, competitive customers and the pipelines themselves, benefit from GRI's efforts;
- WHEREAS, the undue discrimination inherent in GRI's 1998/1999 funding proposal increases rates paid by residential and small commercial customers for natural gas supply above the otherwise prevailing market rates available to competitive customers;
- WHEREAS, since the implementation of Order No. 636's unbundling requirements, GRI has submitted at least three funding proposals to FERC which impose the bulk of GRI's program costs on the non-competitive customers served by interstate pipelines;
- WHEREAS, GRI's 1998/1999 funding proposal constitutes a vestige of monopoly-based pricing mechanisms in an era where Congress and FERC seek to allow competitive market forces to dictate the price of natural gas supply and where FERC seeks to promote more competition in the pricing of the delivery of that supply through market based rates and negotiated rates for pipeline transportation services;
- WHEREAS, GRI's monopoly-based 1998/1999 funding proposal is inconsistent with and inhibits the development of a truly competitive market for natural gas supply;

WHEREAS, the Electric Power Research Institute ("EPRI") is the research and development entity for the electric industry and EPRI functions as a voluntary organization whose members agree to participate and fund the research and development efforts regardless of whether the state regulatory agencies with jurisdiction over the electric utilities rates sanction flowthrough of 100% of EPRI's funding costs to electric consumers;

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates ("NASUCA") believes that in order to promote the use of competitive market forces as a tool to regulate rates for natural gas services, GRI should move in the same direction as EPRI for purposes of funding research and development;

BE IT FURTHER RESOLVED, that NASUCA urges FERC to reject any GRI funding proposals which would impose monopoly-based or inequitable funding mechanisms on interstate pipeline customers and/or which would unduly discriminate against residential and small commercial consumers by allowing competitive customers and pipelines to escape payment of GRI charges; and

BE IT FURTHER RESOLVED, that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

By Faxed Ballot
Place

May 14, 1997
Date

Submitted by:

NASUCA Gas Committee

Craig Burgraff (PA), Chair
Judith Appel (NJ)
Stephen Berger (NY)
Barbara Burton (DC)
Paula Carmody (MD)
Denise Goulet (PA)
Byron Harris (WV)
Jim Hurt (GA)
Werner Margard (OH)
Doug Micheel (MO)
Richard Michal (IN)
Ron Polle (IA)
Richard Steeves (CT)
Jim Stetson (MA)
Dianne Wells (CO)
Eric Witkoski (NV)
Hana Williamson (SC)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

**Urging the Federal Energy Regulatory Commission
to Promulgate Rules to Address the
Ratemaking Treatment of Pipeline Discounts
to Meet Gas-On-Gas Competition**

- WHEREAS, The Federal Energy Regulatory Commission's (FERC) current ratemaking practice, as developed in the Commission's 1989 Rate Design Policy Statement, is to compensate interstate pipelines in their general rate proceedings for revenues lost due to discounting of transportation rates;
- WHEREAS, The FERC's current ratemaking practice requires the interstate pipeline's customers not receiving discounts to bear the revenue responsibility for the discounts;
- WHEREAS, Local Distribution Companies (LDC) are generally not the recipients of discounts from interstate pipelines and also stand to bear a significant portion of the revenue responsibility associated with discounts to other customers;
- WHEREAS, The FERC's policy and practice does not distinguish between discounts designed to attract new business to a particular location, discounts to capture load from alternate fuels, and discounts to lure load away from a competing pipeline (gas-on-gas competition);
- WHEREAS, In any market area where two or more pipelines compete for business through discounting rates to an existing customer, the FERC's ratemaking practice serves to increase other customers' rates with no net increase in throughput;
- WHEREAS, The Illinois Municipal Gas Agency (IMGA) estimates that 75% of all discounts by interstate pipelines are to meet gas-on-gas competition and such discounts raise the rates of other customers by 30 to 50%;
- WHEREAS, On July, 1, 1997 IMGA petitioned the FERC to institute a rulemaking proceeding to address the Commission's policy on the ratemaking treatment for discounts associated with gas-on-gas competition, which petition is docketed as RM97-7-000;

RESOLUTION – 1998-01

Page 2

WHEREAS, The FERC has yet to act upon the IMGA petition;

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the FERC to act upon the IMGA petition and promulgate rules to address the issue of the Commission's ratemaking treatment for discounts for gas-on-gas competition;

BE IT FURTHER RESOLVED, that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this Resolution.

Approved by NASUCA:

Seattle, Washington
Place

June 10, 1998
Date

Submitted by:

NASUCA Gas Committee

Committee Members:

Craig Burgraff (PA), Chair
Sarah Stindel (NJ)
Barbara Burton (DC)
Paula Carmody (MD)
Denise Goulet (PA)
Byron Harris (WV)
Werner Margard (OH)
Doug Micheel (MO)
Ron Polle (IA)
Jim Stetson (MA)
Richard Steeves (CT)
Eric Witkoski (NV)
Hana Williamson (SC)
Richard Michal (IN)
Stephen Berger (NY)
Jim Hurt (GA)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

**Urging the Federal Energy Regulatory Commission
To Incorporate NASUCA Concerns Regarding Consumer
Needs In Its Rulemakings on Short-Term and Long-Term
Transportation Services, Docket Nos. RM98-10 and RM98-12**

- WHEREAS, the Federal Energy Regulatory Commission (FERC) has issued two complementary notices: 1) Docket No. RM98-10, a Notice of Proposed Rulemaking (NOPR) entitled "Regulation of Short-Term Natural Gas Transportation Services"; and 2) Docket No. RM98-12, a Notice of Inquiry (NOI) entitled "Regulation of Interstate Natural Gas Transportation Services," which concerns the FERC's policies governing the long-term market for transportation;
- WHEREAS, the Notices propose a radical restructuring of the regulation of interstate pipelines, which will have a dramatic impact upon the ability of Local Distribution Companies (LDC's) to obtain interstate pipeline transportation services at just and reasonable rates;
- WHEREAS, in Order 636-C, the FERC provided an important consumer protection by allowing current firm capacity holders (the majority of which are LDC's) the ability to retain firm capacity at the end of the current contract term by exercising a right of first refusal to match any competing bid up to the pipeline's maximum rate for a term of five years;
- WHEREAS, the FERC has proposed to eliminate a firm transportation capacity holder's ability to exercise a right of first refusal in renewing transportation contracts, which will limit the ability of LDC's to retain firm capacity under long term contracts necessary to serve their customers after the expiration of current transportation contracts;
- WHEREAS, the FERC has expressed concerns that its current regulations may bias shippers against long term contracts with interstate pipelines and favor short term contracts;
- WHEREAS, there is substantial uncertainty at this time concerning the status of retail unbundling efforts in the various states that leads to uncertainty as to whether LDC's should enter into contracts with terms as long as five years;
- WHEREAS, allowing current firm capacity holders to use their right of first refusal to obtain contracts of varying terms, from one to five years will enhance a firm capacity holder's ability to enter into long term contracts;

RESOLUTION – 1998-10

Page 2

- WHEREAS, an important factor that serves to lower the extraordinarily high cost of long term firm capacity is the ability to obtain revenues from the release of capacity, receipt and delivery points on electronic bulletin boards;
- WHEREAS, the FERC has proposed to revise its rules and policies relating to scheduling, nominations and flexible receipt and delivery points to make released secondary capacity more comparable to short-term firm primary capacity offered by interstate pipelines;
- WHEREAS, the FERC has proposed to eliminate price regulation for all types of short term transportation transactions (long term capacity released as secondary capacity, short-term firm primary capacity and interruptible capacity) and to allow the prices for these transactions to be set by a mandatory auction rather than regulation;
- WHEREAS, in order to protect against the potential abuse of market power by interstate pipelines, the FERC should continue to set a price cap for short term transportation controlled by the interstate pipeline (short term firm capacity and interruptible capacity);
- WHEREAS, in order to provide a mechanism for determining prices below the price cap for short term transportation controlled by interstate pipelines, short term firm and interruptible capacity should be subject to the mandatory auction procedure;
- WHEREAS, a necessary step before the price caps on short term firm and interruptible capacity can be eliminated is a finding by the FERC that the interstate pipeline does not possess market power in the relevant geographic market;
- WHEREAS, NASUCA has consistently supported the elimination of the FERC's current policy of placing price caps on released secondary capacity; and
- WHEREAS, a policy that makes released capacity comparable with short term primary capacity and eliminates the price cap on released capacity will allow LDC's to maximize revenues from their released capacity.

RESOLUTION – 1998-10

Page 3

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the FERC to include the following provisions in its policies governing natural gas transportation services: a) retain the right of first refusal for current firm capacity holders, b) allow current firm capacity holders to use their right of first refusal to obtain contracts of varying terms, c) revise its rules and policies to make released secondary capacity comparable to short term firm capacity, d) continue to set price caps on short term firm and interruptible capacity, e) subject short term firm and interruptible capacity to a mandatory auction, f) only lift the price caps on short term firm and interruptible capacity after a finding that the interstate pipeline does not possess market power.

BE IT FURTHER RESOLVED, that NASUCA calls upon the FERC to incorporate the concerns of NASUCA as expressed in this and other resolutions and in the comments to be filed setting forth NASUCA's positions in Docket Nos. RM98-10 and RM98-12.

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

Orlando, Florida
Place

November 11, 1998
Date

Submitted by:

NASUCA Gas Committee:

Byron Harris (WV), Acting Chair
Stephen Berger (NY)
Barbara Burton (DC)
Paula Carmody (MD)
Denise Goulet (PA)
Werner Margard (OH)
Richard Michal (IN)
Doug Micheel (MO)
Mark Pocta (CA)
Ron Polle (IA)
Richard Steeves (CT)
Sarah Steindel (NJ)
Jim Stetson (MA)
Hana Williamson (SC)
Eric Witkoski (NV)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

**Urging the Federal Energy Regulatory Commission
To Allow States To Retain Maximum Flexibility For Regulating
Local Distribution Companies In Its Rulemakings on Short-Term and Long-Term
Transportation Services, Docket Nos. RM98-10 and RM98-12**

- WHEREAS, the Federal Energy Regulatory Commission (FERC) has issued two complementary notices: 1) Docket No. RM98-10, a Notice of Proposed Rulemaking (NOPR) entitled "Regulation of Short-Term Natural Gas Transportation Services"; and 2) Docket No. RM98-12, a Notice of Inquiry (NOI) entitled "Regulation of Interstate Natural Gas Transportation Services," which concerns the FERC's policies governing the long-term market for transportation;
- WHEREAS, many of the FERC's proposals are designed to: 1) foster competition for interstate pipeline services in all geographic markets; and 2) promote the unbundling of retail sales service by local distribution companies (LDC's);
- WHEREAS, in many areas of the country, LDC's are served by one pipeline that is able to wield monopoly market power;
- WHEREAS, in areas where LDC's are captive customers of interstate pipelines, it is essential that the FERC retain vigorous regulation of pipelines to protect consumer interests;
- WHEREAS, the FERC should recognize that the adoption of measures that attempt to allow competitive forces to set prices may not be appropriate for all areas of the country due to the ability of interstate pipelines to exercise market power in certain geographic markets;
- WHEREAS, the decision of whether or not to engage in retail unbundling is appropriately the preserve of state regulatory agencies; and
- WHEREAS, the FERC should adopt rules and policies that maintain maximum flexibility for state decision making regarding retail unbundling.
- THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) calls upon the FERC to refrain from adopting policies that presume as appropriate for all geographic markets of the country, an absence of the ability of interstate pipelines to wield market power over long term or short term transactions.

BE IT FURTHER RESOLVED, that NASUCA calls upon the FERC to recognize the impact of changes in its policies on the states' decisions regarding retail unbundling, and to adopt policies that maintain maximum flexibility for state decision making on this issue.

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

Orlando, Florida

Place

November 11, 1998

Date

Submitted by:

NASUCA Gas Committee:

Byron Harris (WV). Acting Chair
Stephen Berger (NY)
Barbara Burton (DC)
Paula Carmody MD)
Denise Goulet (PA)
Werner Margard (OH)
Richard Michal (IN)
Doug Micheel (MO)
Mark Pocta (CA)
Ron Polle (IA)
Richard Steeves (CT)
Sarah Steindel (NJ)
Jim Stetson (MA)
Hana Williamson (SC)
Eric Witkoski (NV)