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REPORT OF THE  
COMPTROLLER GENERAL  
OF THE UNITED STATES



Actions Taken By  
The Federal Power Commission  
On Prior Recommendations  
Concerning Regulation Of  
The Natural Gas Industry  
And Management Of  
Internal Operations

The Commission implemented most of GAO's prior recommendations, and the actions it took enhanced its ability to effectively regulate the natural gas industry.

RED-76-108

MAY 24, 1976

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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-180228

The Honorable John E. Moss, Chairman  
Subcommittee on Oversight and Investigation HSF 2 5  
Committee on Interstate and Foreign Commerce  
House of Representatives

Dear Mr. Chairman:

By letter of February 28, 1975, you asked us to analyze the actions the Federal Power Commission took to implement the recommendations made in our report entitled "Need for Improving the Regulation of the Natural Gas Industry and Management of Internal Operations" (B-180228, Sept. 13, 1974). 258

In a subsequent meeting with your office, it was agreed that we would concentrate our review on two of the areas about which we made recommendations to the Commission's Chairman--the need to (1) obtain complete and accurate data from gas companies engaged in emergency gas sales and (2) take timely action on applications under the optional certificate procedure. In addition, we agreed to determine whether the Commission was continuing to grant extensions to 60-day emergency sales which our report termed improper. When we reached these agreements, we felt that the revised securities ownership reporting requirements had not been in effect long enough for us to be able to fairly evaluate them. Because the date by which employees were required to file stock ownership reports had passed, we examined the filings as part of our review.

In general, we found that the Commission had taken action to implement most of our recommendations and that the actions had enhanced its ability to effectively regulate the natural gas industry. We found certain instances, however, where the Commission failed to fully implement the recommendations, and we found one instance where an additional deficiency had developed. The Commission has agreed to take corrective actions in these matters, all of which relate to reporting data on 60-day emergency sales. If properly implemented, the actions should result in timely reporting of emergency sales data and should enhance the Commission's ability to monitor the effectiveness of the emergency sales programs.

INFORMATION OBTAINED ON EMERGENCY SALES

In 1970 the Commission issued Orders 402 and 402-A that were to encourage intrastate pipelines and distribution companies--which are exempt from Commission jurisdiction--to make short-term sales or deliveries of natural gas in interstate commerce without prior Commission reviews. This was to provide jurisdictional companies with emergency gas supplies up to 60 days. Similarly producers were permitted to sell gas at unregulated prices up to 60 days after the Commission issued Order 418 in December 1970. The intent of these orders was to permit short-term sales at prices generally exceeding area rate ceilings and thus attract new gas to the interstate market.

Order 491, issued in September 1973, extended the length of emergency gas sales from 60 to 180 days. Order 491 expired on March 15, 1974, however, and emergency gas sales reverted to being 60-day sales.

The producers' 60-day emergency gas sales provisions authorized by Order 418 were terminated on June 21, 1974, when the Commission issued Opinion 699. Opinion 699 established a national rate of 42 cents a thousand cubic feet, which the Commission believed would encourage long-term dedication of gas to the interstate market and would eliminate the need for producers' 60-day emergency sales. In the opinion, the Commission expressed its belief that the 60-day emergency sales had helped to cause producers to defer entering into long-term dedications of gas to the interstate market, which was required to eliminate the gas shortage.

On September 9, 1974, the Commission issued Opinion 699-B which reinstated producers' 60-day sales. In the opinion, the Commission stated that the reason for reinstating producers' 60-day sales was that sufficient gas was not being provided for the interstate market, considering the threat of the interstate pipelines' increasingly severe curtailment of service for the then upcoming 1974-75 winter.

On September 13, 1974, we reported that the Commission needed to obtain complete and accurate data on 60- and 180-day emergency gas sales to adequately monitor the effectiveness of emergency gas sales provisions. The report discussed sales made before March 15, 1974, and the Commission's failure to obtain actual price and volume data for the 60-day emergency sales. We reported that the Commission had relied on

incomplete information when justifying the need for the 180-day emergency sales and that the Commission had not adequately evaluated the effects of such sales.

The specific recommendations that we made to the Chairman of the Commission about the information we obtained on emergency gas sales and our analysis of actions taken by the Commission follow.

Insure that all data required to be reported to the Commission is done so promptly and that a followup is made when the data is incomplete

Although this recommendation was specific, we found that data required to be reported on emergency gas sales was not being reported promptly and in a few instances it had not been reported.

Orders 402 and 402-A require the seller (exempt from Commission jurisdiction) or transporter (subject to Commission jurisdiction) to file with the Commission, within 10 days after the emergency sale commences, a statement briefly outlining the nature of the emergency. Within 10 days after the termination of the emergency, a sworn statement is to be filed with the Commission stating the volumes of gas delivered and the total reimbursement the seller received. When it was brought to the Commission's attention that the sellers were not reporting data, contrary to requirements, the Commission requested that the data be supplied by the interstate pipeline companies, which, in most cases, were the purchasers. According to Commission officials, the 10-day reporting requirements of Orders 402 and 402-A apply to these interstate pipeline companies.

Opinion 699-B requires interstate pipeline companies, on completion of producers' 60-day emergency sales, to advise the Commission of the actual volume and price of the gas delivered but does not specify a deadline when the pipeline companies must provide the data. If such data is not reported within a reasonable time, neither the Commission nor the general public can assess the impacts of the emergency gas sales programs. Providing such data to the general public is fundamental to the regulatory process, and if the data is inaccurate or incomplete, subsequent decisions based on such data may be faulty.

In November 1975, when we examined the Commission's records relating to sales that commenced during April, May, and June 1975, we found that actual volume and price data for 20 of the 54 emergency sales had not been reported to the Commission. Another look at the records in April 1976 showed that the Commission still had not obtained the required data for two sales.

As of April 19, 1976, data reported for the sales under Orders 402 and 402-A that commenced in April, May, or June 1975, was submitted from 24 to 92 days (59-day average) after the sales terminated. Data for the sales under Opinion 699-B for the same period was reported from 7 to 278 days (103-day average) after the sales terminated.

According to a Commission official, there are no written procedures for following up on data which is not reported promptly. The official told us that he simply followed up when he felt that companies had enough time to report the data--generally about 4 months after the sales. For example, when we examined this matter in November 1975, the Commission had followed up only on April 1975 sales for which companies had not reported the required data but had taken no action for those sales that commenced in May and June 1975.

The Commission has not effectively implemented our recommendation to insure that all required data on emergency sales is reported promptly and to follow up when data is not received or is incomplete.

The Commission did recognize that data for sales under Orders 402 and 402-A may be difficult to obtain from unregulated companies and therefore requested the regulated interstate pipeline companies to supply the data within 10 days after sales terminated. Under Opinion 699-B, however, the Commission did not include any specific time frame for reporting by the interstate pipeline companies. The Commission was remiss in not including such a requirement. Just as important, however, was the Commission's lack of a systematic followup procedure to obtain the data promptly.

Require the reporting of actual volume and price data for interstate gas sales rather than continue to rely on estimates

This recommendation was made because intrastate pipelines and distribution companies, contrary to Orders 402 and 402-A, generally were reporting estimated price and volume data

rather than the actual data. More important, however, Order 418 did not require producers to file actual data on their emergency sales. It was our opinion that the Commission should obtain the actual price and volume data.

We completed our initial review early in June 1974. Since then the provisions of Order 418 were terminated but were reinstated pursuant to Opinion 699-B. As stated above, Opinion 699-B requires interstate pipeline companies to report actual price and volume data to the Commission.

Our review of emergency sales that commenced in April through June 1975 showed that actual price and volume data was being reported for sales under Orders 402 and 402-A and under Opinion 699-B.

Impose reporting requirements on regulated entities to insure that needed data can be obtained

The Chief, Bureau of Natural Gas, told us during our initial review that the Commission might not be able to enforce the requirement of Orders 402 and 402-A that intrastate pipeline and distribution companies report actual sales data because they were not normally subject to Commission jurisdiction. We therefore recommended that the Commission impose the reporting requirements on regulated interstate companies which were buying the gas from the nonjurisdictional companies.

The Commission, in commenting on this recommendation in the September 1974 report, said that at that time it was collecting complete volume and price data including data from interstate pipelines for sales under Orders 402 and 402-A.

As stated above, our review of emergency sales that commenced in April through June 1975 showed that actual price and volume data was, in fact, being reported. We found no instances where the Commission was refused the actual price and volume data by interstate pipeline companies, although the data often is not reported promptly.

Invoke the penalty provisions of the Natural Gas Act when required information cannot be obtained from regulated entities

This recommendation also concerned the need to promptly obtain sales data. Commission officials have told us that,

because the reporting requirements of Orders 402 and 402-A had been shifted to interstate pipeline companies, the Commission would be able to invoke the penalty provisions of the Natural Gas Act if the data could not be obtained. These same penalty provisions could also be invoked if the data required by Opinion 699-B is not submitted.

The Commission has been successful in obtaining 60-day emergency sales data, but not until after the companies were prodded. We believe that the penalty provisions should be invoked but not until an aggressive, systematic followup has failed to obtain the required data promptly.

Establish an adequate recordkeeping and filing system for emergency gas sales

The Commission has established a recordkeeping and filing system for emergency gas sales that is generally adequate. The filing system involves keeping individual files for each sale by an intrastate pipeline company, distribution company, or producer. The files contain estimated and actual price and volume data supplied and any correspondence that the Commission has had with companies and producers about their emergency sales.

From the data in the files, the Commission accumulates statistics showing emergency sales with the estimated and actual volume of gas sold and the price at which the gas was sold. We noted that the statistics did not contain any information about the continuation of emergency gas sales beyond the 60-day period. In response to our request, the Commission determined that, 9 of the 54 emergency sales that commenced in April, May, and June 1975 continued beyond 60 days.

The individual files for the emergency sales do not contain information about these continuations nor do the statistics compiled from data in the files.

We believe that, to accurately show the effects of the 60-day emergency sales program, continuations should be detailed clearly to show their duration and the volumes involved.

We recommended in our report that the Commission review its optional certificate procedures to insure that final action is taken on applications promptly. We stated that this might require (1) extending the 6-month period during which the area rate applied, (2) establishing a priority system for cases where higher prices might be imposed before final Commission approval, and (3) providing refunds to customers where the Commission considered the rates to be unreasonable.

In response to our recommendations, on November 25, 1974, the Commission issued Order 455-B which extended to 9 months the period during which producers could charge the national rate before increasing the price to the contract rate.

As of April 1976, the Commission had received only four applications for optional certificates under Order 455-B. Of the four applications, two were combined into one case, and the Commission issued the applicants a temporary certificate on March 29, 1976. Sales did not commence until the certificate was issued, so the 9-month waiting period never started. In the second case, the application was filed with the Commission in March 1975 and withdrawn effective June 18, 1975. In the third case, the application was filed with the Commission on August 22, 1975, and gas deliveries commenced on the same day; however, the contract rate for the gas was the same as the national rate. On November 7, 1975, the Commission issued a certificate; however, the applicant notified the Commission on November 25, 1975, that the well was no longer producing. Thus in all four applications filed under Order 455-B, extending the time from 6 to 9 months had no effect.

Likewise the recommendations that the Commission establish a priority system and provide for refunds have had no effect because none of the applications extended past 9 months. We were told by a Commission official, however, that priority would be given to processing applications for which sales had commenced. Such action would be consistent with our recommendation.

Regarding our recommendation that refund provisions be included as part of the authority to sell gas under Order 455-B before final Commission action, we found that the lack of a refund provision had been challenged in the courts and upheld. Therefore legislation is necessary to require such a provision. Because there is little activity in this program, we see no need to seek such legislation at this time.

EXTENSIONS OF EMERGENCY SALES

In our September 1974 report, we stated that extensions to producers' 60-day emergency sales were improper because the Commission's policy was not embodied in nor carried out by regulation, contrary to the requirements of the Natural Gas Act. The Commission claims that it has legal authority to waive the regulation to serve the public interest, to avert a national gas supply emergency.

The specific issue of extensions to producers' sales was resolved when the Commission issued Opinion 699 which, among other things, terminated the provisions for producers' emergency sales. The provisions were later reinstated, however, in Opinion 699-B, but the Commission specifically authorized such sales to continue beyond the 60-day period. The opinion stated that no emergency sale could extend beyond the 60-day period unless the seller filed an application for a permanent or temporary certificate. The opinion further stated that any continuation of deliveries at a rate in excess of the national rate would be subject to refund if the rate was in excess of the rate the Commission finally found to be appropriate.

OPTIONAL CERTIFICATE PROCEDURE

In August 1972 the Commission adopted the optional certificate procedure (Order 455), which authorized producers to sell gas at prices exceeding area ceiling rates, if the Commission found it to be in the public interest. Order 455 allowed the delivery of gas to begin before the Commission took final action on the application, as long as the deliveries were made at rates no higher than the prevailing area ceiling rate for 6 months. At the end of the 6 months, if the Commission had not taken final action on the application, the producer could charge the rate specified in the contract until the Commission acted on the application. The order contained no repayment provision if the Commission approved a rate less than that charged after the 6-month period. Opinion 699 changed the amount that could be charged for the 6-month period from the area ceiling rate to the prevailing national rate.

In our September 1974 report, we stated that the Commission had failed to take final action on applications made under its optional certificate procedure within the 6-month period, with the result that gas customers were subjected to prices which might not have been just and reasonable.

REPORTING FINANCIAL HOLDINGS OF  
COMMISSION OFFICIALS

In 1966 the Commission issued its standards of conduct regulations (18 C.F.R. 3.735), pursuant to Executive Order No. 11222 issued May 8, 1965, and Civil Service Commission regulations. The Commission's regulations preclude officials from owning financial securities which could lead to conflicts of interest.

In September 1974 we reported that there had been widespread noncompliance by Commission upper level officials with the Commission's standards of conduct regulations. We had found that most upper level officials who were required to file financial disclosure forms had failed to do so for several years and that those forms that had been filed had not been reviewed by the Office of Personnel Programs to safeguard the agency and the officials from conflict of interest allegations. In fact, when our report was issued, such allegations were abundant.

We made specific recommendations to the Commission to improve its procedure, so as to insure that upper level officials do not own financial securities which could result in conflicts of interest. We recommended that the Commission establish adequate procedures for (1) identifying and notifying officials required to file financial disclosure reports, (2) promptly reviewing reports, (3) promptly notifying officials owning prohibited securities and requiring divestiture of the securities, and (4) investigating all cases when officials have held securities that could conflict with their duties, to determine whether disciplinary actions should be taken.

Upon learning of the breakdown in the safeguards to prevent conflicts of interest while our review was underway, the Commission took immediate action to remedy the situation. All upper level officials were required to file proper financial disclosure forms. All securities reported in the disclosure forms were examined to determine whether employees should be prohibited from holding such securities. If the employees did hold prohibited securities, the Commission took steps to force the employees to dispose of them. The Commission investigated those officials who had held prohibited securities but found no evidence of conflicts of interest.

Since the release of our report, we have been told of other actions taken by the Commission to protect it and its employees from allegations of conflicts of interest. These actions included requiring all employees to disclose their financial holdings annually and establishing formal procedures for continually updating a list of prohibited securities.

All upper level officials required to disclose their financial holdings on June 30, 1975, did so, except for one official who filed his disclosure form on September 19, 1975, after being reminded by the Office of Personnel Programs.

Some upper level officials held securities that were on the Commission's list of prohibited securities but disposed of them after being notified by the Office of Personnel Programs that the securities were prohibited.

Regarding the security holdings of other employees, the Commission has required all employees to file the same financial disclosure form. The Director, Office of Personnel Programs, told us that all employees had filed financial disclosure forms for June 30, 1975.

At the time of our followup review, the Office of Personnel Programs was reviewing the financial disclosure forms of the employees to determine whether any were holding prohibited securities.

The improvements the Commission has made in the procedures to insure that the agency and its employees are not subject to conflict of interest allegations have met or exceeded the recommendations of our September 1974 report.

### CONCLUSIONS

Generally the Commission has taken action to implement the recommendations of our September 1974 report. As a result, its ability to effectively regulate the natural gas industry has been enhanced.

The Commission is having some difficulties, however, in obtaining volume and price data on emergency sales promptly. This is because the Commission lacks an adequate followup system and because interstate pipeline companies are not required to file sales data within a specified period under Opinion 699-B.

The Commission's system of following up on volume and price data not reported involves merely writing or phoning the companies at the discretion of the Commission staff member who keeps the records. Usually 4 months elapse before any followup is made.

Of course, by not providing the data promptly, regulated companies are subjecting themselves to the penalty provisions of the Natural Gas Act. We believe, however, that the penalty provision should not be enforced until after such time that the Commission implements an aggressive followup system and finds that companies making 60-day emergency sales are not complying with the reporting requirements.

Regarding the recordkeeping system, the Commission should keep separate statistics on those emergency sales which continue past the 60-day period. This would provide precise statistics on 60-day sales as well as information on the continuation of 60-day sales.

#### RECOMMENDATIONS

We recommend that, for the Commission to adequately monitor the effectiveness of the 60-day emergency sales, the Chairman of the Commission:

- Establish a specific reporting time frame for interstate pipeline companies required to file volume and price data on 60-day emergency sales under Opinion 699-B.
- Require that formal followup procedures be established to obtain 60-day emergency sales data when the data is not promptly reported under Orders 402 and 402-A and Opinion 699-B. The procedures should include specifics on when the penalty provisions of the Natural Gas Act should be invoked.
- Keep data about emergency sales that continue beyond 60 days separate from other emergency sales data.

#### AGENCY COMMENTS AND OUR EVALUATION

The Commission, in commenting on our report by letter dated March 5, 1976 (see appendix), stated that some inordinate delays had occurred in obtaining required data. The letter also stated that the Commission had instituted

formal followup procedures to be used when the required data is not reported within 30 days after the termination of the sale.

The formal procedures, dated March 9, 1976, established a 30-day time frame for reporting the data under Opinion 699-B, but did not contain any specific instructions for followup if the data was not reported. For sales under Orders 402 and 402-A, the followup procedures simply stated that, if the data was not reported within 10 days after the termination of the sale, the purchaser would be advised that he was required to submit the data immediately.

In March 1976 we discussed with Commission officials the lack of specific instructions in the followup procedures as to what action to take if the data was not reported within the established time frame. The Commission officials said that they would revise the followup procedures to specify what action would be taken if required data was not reported, when the action would be taken, and at what point the penalty provisions of the Natural Gas Act would be invoked.

The Commission acknowledged that its files on emergency sales did not, in many cases, show the situation where the 60-day period had expired but the seller had determined to continue the sale by seeking certificate authorization. The Commission said that it had taken steps to insure that the emergency sales files will show that application had been made for a certificate and show the Commission's action thereon.

The Commission's proposed actions, if properly implemented, should result in prompt reporting of emergency sales data and should enhance the Commission's ability to monitor the effectiveness of the emergency sales program.

A copy of the Commission's response is included as the appendix.

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As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House and Senate Committees on Government

B-180228

Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report. We will be in touch with your office in the near future to arrange for release of the report so that the requirements of section 236 can be set in motion.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Glenn B. Steed".

Comptroller General  
of the United States

FEDERAL POWER COMMISSION  
WASHINGTON, D.C. 20426

March 11, 1976

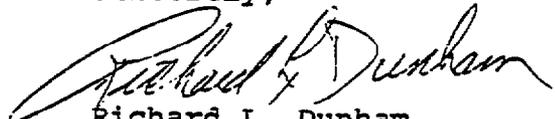
Mr. Henry Eschwege  
Director, Resources and Economic  
Development Division  
General Accounting Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Mr. Eschwege:

This letter is to inform you that I concur with the staff response, signed by the Assistant Secretary Mary Peak, to the draft GAO Report B-180228, entitled "Need For Improving The Regulation Of The Natural Gas Industry And Management Of Internal Operations."

If you have any further questions on the matter, please do not hesitate to contact me or the staff in the Bureau of Natural Gas and the Office of the General Counsel who assisted in the preparation of our response.

Sincerely,

  
Richard L. Dunham  
Chairman



FEDERAL POWER COMMISSION  
WASHINGTON, D.C. 20426

IN REPLY REFER TO:

OGC

Mr. Henry Eschwege  
Director, Resources and Economic  
Development Division  
General Accounting Office  
441 G Street, N. W.  
Washington, D. C. 20548

March 5, 1976

Dear Mr. Eschwege:

This is in reply to your letter of February 23, 1976, soliciting comments on a proposed letter report to Congressman John E. Moss. The draft report is a follow-up to the September 13, 1974 GAO Report B-180228, entitled "Need For Improving The Regulation Of The Natural Gas Industry And Management Of Internal Operations."

We are pleased to note that, overall, GAO concluded that the Commission had taken steps to implement the recommendations contained in the GAO 1974 report. The only exception cited in the proposed letter is the Commission's treatment of the reporting requirements for sixty-day emergency sales. GAO contends that the Commission: (a) does not promptly obtain information on the price and volume of emergency sales, (b) has no written instructions outlining what procedures Staff personnel are to follow when required information is not timely submitted, and (c) keeps inadequate files on emergency sales because they do not reflect when a producer has filed an application to convert an emergency sale to a permanent certificate authorization.

An emergency sale or purchase made pursuant to the certificate exemption provided for by the Congress in Section 7(c) of the Natural Gas Act, 15 U.S.C. § 717f(c), is to permit interstate pipe lines to procure short-term supplies needed to meet emergency shortages. In order for the Commission to monitor the effectiveness of this program, those making emergency sales or purchases are required to file specific information as to price and volume of delivery. Because these exempt sales or purchases are of such limited duration, it is often difficult for large, active pipe line companies to file the necessary data immediately upon termination of the sale or purchase. This lag in reporting does not impair

Mr. Henry Eschwege

the Commission's regulatory effectiveness since, as GAO notes, the information has been customarily submitted to the Commission by both regulated and unregulated companies. Also, it is the long run ramifications of the emergency provisions that are important to the Commission in evaluating the efficacy of exempt sales or purchases, and in making legislative recommendations to the Congress.

Some delays in reporting to the Commission are caused by the time it takes the seller or purchaser to collect and analyze the proper records, compute the metered volumes, and prepare the written report. When this task is performed within the normal course of the company's business, the report requirement has not caused unnecessary duplication of effort at additional expense. The Commission recognizes, however, that some inordinate delays have occurred. In view of this, the Commission has instituted formal follow-up procedures to be used when a pipe line or a producer has not submitted the required data within thirty (30) days of the termination of the sale.

The draft letter correctly recognizes that the Commission's files on emergency sales do not, in many cases, reflect the situation where the sixty-day period has expired but the seller has determined to continue the sale by seeking certificate authorization.

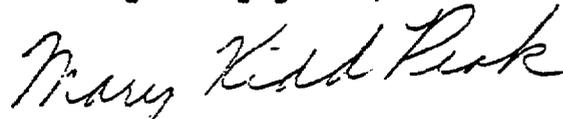
[See GAO note, p. 4.]

When an application for certification is filed, the Commission has taken steps to insure that the emergency sales files reflect the submission of the application and the Commission's subsequent action thereon.

Mr. Henry Eschwege

After due consideration of the remarks noted above, it is evident that the Commission has implemented the recommendations listed in the 1974 GAO report, as a result of which, the GAO now concludes, the Commission has enhanced its ability to regulate the natural gas industry.

Very truly yours,



Secretary

GAO note: Deleted comment relates to matters in the draft report which have been revised in the final report.

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