

POLICY POSITION

9. Repeal of Title II of the Powerplant and Industrial Fuel Use Act of 1978, Public Law 95-620

Background

The Powerplant and Industrial Fuel Use Act (FUA) was passed in 1978 as one of the five legislative components of the National Energy Act. The purpose of FUA was to shift electric utility plants and major industrial fuel-burning installations from oil and natural gas to coal. Subject to specific exemptions, FUA prohibits the use of oil or natural gas as a primary fuel in any newly constructed utility generation facility or major industrial fuel-burning installation. FUA granted authority to the United States Department of Energy to order existing facilities to convert to coal or an alternative fuel. Existing facilities were also required by the statute to limit use of natural gas to the proportion of total fuel used during 1974-1976, to refrain from oil to gas switches, and to cease the use of natural gas entirely by 1990.

The Fuel Use Act was largely a response to two major factors: the Arab oil embargo of 1973, which highlighted the United States' tenuous dependence on unstable, imported oil sources; and the regulatory-induced gas supply shortages of the mid-1970's. Nearly twenty-five years of federal wellhead price regulation had kept the price of gas below market clearing levels, thereby discouraging exploration and production of natural gas resulting in a supply and demand imbalance.

The federal reaction to this market imbalance was twofold: first, the FUA was passed to limit the demand for gas; and second, the Natural Gas Policy Act (NGPA) was passed to stimulate exploration and development of new gas sources. The NGPA has provided the framework for a transition to a decontrolled gas market. The supply impetus provided by the NGPA has been both obvious and encouraging. The gas market went from shortages to surpluses, and natural gas reserve additions from 1980 through 1983 equaled 102 percent of gas production, compared to only 48 percent in the 1968 through 1978 period.

Many of the restrictions imposed on electric utilities and large industrial plants by the FUA were ill-conceived, and the success of the NGPA in stimulating new gas supplies precludes the need to retain the FUA. In partial recognition of the FUA's deficiencies, Congress repealed the provisions of the FUA which required existing (pre-1977) powerplants and major fuel burning installations to be off gas by 1990. However, new facilities may not use gas as a primary energy source.

In contrast to oil, roughly one-third of which is supplied by foreign sources, only about five percent of the United States' total natural gas supply is provided by imports. Virtually all of the imported gas in the United States is provided by Canada. Many of the member states of the Southern Legislative Conference are energy producing states and, at the present time, have an oversupply of natural gas. An increased demand for natural gas would stimulate the overall economy of these states. Increased exploration and development

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activity would expand employment in the oil and gas industries and enhance state revenues through the gross production tax.

While nuclear plants are associated with extreme financial risks and public controversy and coal-fired plants are requiring higher capital investment due to scrubbing requirements to control sulphur dioxide, nitrogen oxide and particulate emissions, the electric utility industry is prohibited from building gas-fired power plants. The repeal of Title II of the Powerplant and Industrial Fuel Use Act would restore to the utilities the most economic option for generating electricity and would encourage the development of a balanced energy mix in the production of electric power.

Recommendation

Therefore, the Southern Legislative Conference calls upon Congress to recognize that it is irrational public policy which prohibits a region from utilizing an indigenous fuel source that is plentiful and environmentally harmless and to repeal Title II of the Powerplant and Industrial Fuel Use Act of 1978.

The Southern Legislative Conference joins the Southwest Regional Energy Council in its efforts to initiate repeal of the Powerplant and Industrial Fuel Use Act of 1978.

Adopted by the Southern Legislative Conference on July 24, 1985.

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