

Testimony of Nils Nichols
Senate Energy and Natural Resources Committee
May 1 Hearing: Short on Gas: A Look into the Propane Shortage this Winter

Madame Chair, Ranking Member Murkowski and members of the committee, thank you for this opportunity to testify here today. The comments are my own and do not necessarily reflect the views of the Commission.

I'd like to begin with a brief overview of the Federal Energy Regulatory Commission, and the oil and product pipeline program there, and then follow up with a summary of the emergency actions that we took this last winter with regard to propane.

The Commission is an independent regulatory agency. As such, it exercises only the authority that Congress has delegated to it in statutes such as the Federal Power Act, the Natural Gas Act and the Interstate Commerce Act. The Commission has approximately 1,500 employees; the oil and product pipeline regulation program has a total of about 15 employees or 1% of that small agency.

Oil and product pipelines are common carriers, which means they provide service to anyone who meets the terms and conditions of their tariff who wishes to ship on the pipeline. The pipelines typically do not own the products they ship; their role is to provide a transportation service. The pipelines provide this service pursuant to tariffs that must be filed with the Commission. We regulate the interstate rates and terms and conditions of service pursuant to which those services are offered.

The Interstate Commerce Act does not provide the Commission with construction or abandonment authority over oil and product pipelines. This is in contrast to the authority that Congress has given us in the Natural Gas Act. The Interstate Commerce Act also prohibits us from revealing shipper information concerning the nature, kind, quantity, destination or routing of any property tendered or delivered to the pipeline.

The Interstate Commerce Act also does not afford the Commission jurisdiction over terminal facilities that are not necessary or integral to the pipeline transportation function.

The filings that we process are essentially administrative hearings that are typically conducted on a paper record. Interested entities may intervene and participate in those proceedings, and we have many, many parties who do. Our rulings, of course, may be appealed to the court system.

Turning to the events of this past winter, on February 7, 2014, which was a Friday, the Commission determined that an emergency existed. It did so, in part, through our communications with other agencies and also from members of Congress, state governors and so forth. On February 7 we issued an order directing Enterprise TE Products Pipeline Company, which operates a batched pipeline -- meaning it ships

many products other than propane from Mont Belvieu, Texas, which is down the Houston area, into the Midwest and Northeast -- we ordered them to provide seven days of priority treatment for those propane shipments.

This is an authority we had not used before. It dates back to approximately 1920 and was apparently directed at railroad shortages following World War 1.

The following Monday, February 10, I conducted a dispute resolution proceeding because we did not have time to construct a record on which to base our action because we acted so quickly. We wanted to make sure that we weren't going to have unintended consequences such as depriving the region of jet fuel, motor gasoline and other substances that go up that pipeline.

Thanks to the exceptional preparedness of the pipeline and the National Propane Gas Association we reached a satisfactory result in three hours. The parties submitted filings with the Commission reflecting their agreement that if we extended the emergency treatment of prioritization of propane for an additional seven days it would take care of the problem.

The next day the Commission issued an order approving that solution, and so we extended the prioritization of propane for a total of 14 days. My understanding is that approximately an additional 500,000 barrels of propane moved up the pipeline as a result of that action.

Thank you