

NCLIR Releases CFA Mega-Merger Study

At a May 2 Capitol Hill press conference organized by the National Council for Low Interest Rates, CFA Executive Director Stephen Brobeck released a study linking the 1984 merger boom to recent interest rate hikes.

This event kicked off a legislative conference on high interest rates featuring speeches by Sen. Alan Cranston (D-CA), Sen. Max Baucus (D-MT), and Operating Engineers President and NCLIR Chairman J. C. Turner. Besides Brobeck and Turner, Rep. Geraldine Ferraro (D-NY), Rep. John LaFalce (D-NY), and AFL-CIO Director of Housing and Monetary Policy Henry Schechter spoke at the press conference.

Both in number and dollar value, the merger binge of the first four months of 1984 was unprecedented, according to a new CFA study linking the 1984 merger boom to recent interest rate hikes.

The CFA study revealed that both in numbers and dollar value, the merger binge of the first four months of 1984 was unprecedented. 1983 was a year of near-record merger activity, yet the value of the big mergers in this year was far exceeded by those in 1984. In 1983, there were 42 deals of at least \$200 million each, worth a total of \$26.0 billion, according to the study. Through April 26 of 1984, there had already been at least 32 mergers of this size, completed or near completion, worth more than \$41 billion. The latter figure included the \$13.4 billion SOCAL paid for Gulf, and the \$10.1 billion Texaco paid for Getty.

These mergers, the CFA study points out, increased the demand for credit in two ways. Before making the 32 acquisitions, aggressor companies arranged lines of credit with banks totalling, in early 1984, at least \$62.4 billion. These loan commitments restricted the ability of banks to make medium and long-term loans, thus curbing the availability of credit and pushing up rates.

At least \$29.9 billion of credit lines were actually drawn down to complete deals. These loans exceeded the record borrowing in all of 1981 for larger mergers, according to the study.

"Most of these funds made their way back into the investment stream, yet still placed upward pressure on rates," Brobeck said. "A portion of the funds received by shareholders of target companies was used to purchase goods or services or to pay capital gains taxes, thus 'leaking out' of the stream. Another larger portion was reinvested in stocks or bonds, where it was less available to banks."

Moreover, even when the funds were deposited in banks, there was always a delay of several days to several weeks between the borrowing and the deposits.

At the press conference and following legislative conference, several other factors were cited as causing high rates. Turner blamed "tight-money policies endorsed by the Reagan Administration and maintained by the Federal Reserve Board." Rep. Ferraro pointed to huge Treasury borrowings necessary to cover federal deficits.

Sen. Cranston endorsed the NCLIR's legislative agenda as "a good place to start" in bringing down interest rates. The cornerstone of this program is reinstating the Credit Control Act of 1969, with improvements, which according to Turner, "would restrict credit for corporate takeovers, for speculative investments, for international money-market speculation, and for other non-essential purposes."



Attending the NCLIR Capitol Hill press conference in early May were (left to right); Henry Schechter, AFL-CIO Director of Housing and Monetary Policy; Rep. John LaFalce (D-NY); CFA Executive Director Stephen Brobeck; Rep. Geraldine Ferraro (D-NY); Jack Gillis, CFA Information Director; and Operating Engineers President and NCLIR Chairman, J. C. Turner.

The NCLIR is a broad-based coalition which includes CFA, the Operating Engineers, National Farmers Union, American Public Power Association, National Rural Electric Cooperative

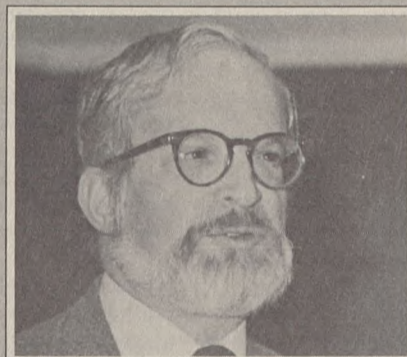
Association, United Auto Workers, Carpenters Union, and other national groups.

(Copies of the merger study can be purchased from CFA for \$5 each; free to CFA members.)

14th Annual Awards Dinner



Senator Tsongas



Arnold Mayer



Representative Dingell

Consumer Federation of America will hold its Fourteenth Annual Awards Dinner on Thursday, June 14 to honor distinguished consumer leaders in Congress and the public sector. Senator Paul Tsongas and Congressman John Dingell will be awarded the Philip Hart Public Service Awards, and Arnold Mayer, Vice President of the United Food and Commercial Workers International Union, will receive the Philip Hart Distinguished Consumer Service Award. The Outstanding Consumer Media Service Award will be presented to Roberta Baskin of television station WLS/ABC in Chicago.

In addition to honoring CFA's award recipients, the dinner is the major fundraising event of the organization. If you would like to attend, contact Karen Eppsteiner, CFA, 1314 14th Street, N.W., Washington, D.C. 20005 or call (202) 387-6121. The reception will begin at 6 p.m., followed by a buffet dinner at 7 p.m. The event, which will also feature music and entertainment, will be held in the Congressional/Senate Room of the Capital Hilton Hotel, Washington, D.C.

The Truth About Credit Card Surcharges

by David I. Greenberg,
CFA Legislative Director

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USA TODAY.

Editor's Note: *The ban on credit card surcharges—which was enacted in 1976 and extended in 1978 and 1981—expired in early 1984. American Express, Visa, and MasterCard are furiously lobbying Congress to re-enact a ban, which may come up for a vote this summer. Legislative Director David Greenberg explained CFA's opposition to a credit card surcharge ban in the March 4 edition of USA Today, reprinted below.*

WASHINGTON—The debate about credit card surcharges is over who should pay for the costs of credit cards.

Right now, without knowing it, cash consumers are paying billions of dollars in costs created by credit card users. That's because one of the costs of credit cards is hidden in the overall prices of goods in the marketplace.

This hidden credit card cost comes from a fee that credit card companies charge merchants for each credit card sale. The fee averages 3 percent, but can be as high as 6 percent of each credit card purchase.

In 1980, merchants paid \$1.5 billion in these fees to American Express, Visa and MasterCard. Like all merchants' costs of doing business, the fees end up in the prices of goods.

A recent Federal Reserve Board study confirmed that these credit card costs raise prices for everyone—including

poor people who do not qualify for credit cards, people who pay by check, and people who pay cash thinking that they are avoiding the high costs of credit cards.

It would be simple to end this hidden tax on cash customers by allowing merchants to charge credit card users for all the costs of their cards. Such a surcharge would not create any new costs, it would just end merchants' need to raise all prices in order to recover the fees they pay to credit card companies.

Would discounts for cash work better than credit surcharges?

It's difficult to know, since less than 10 percent of retailers offer such discounts, even though they have been legal for 10 years.

To use a cash discount, merchants must first raise the prices of all their goods to reflect credit card costs and then offer cash customers a lower price.

Why not just leave prices as they are and charge credit card users for the additional costs they alone create?

If we did that, could credit surcharges be used as a sneaky way to raise prices for credit cards without giving cash customers a break?

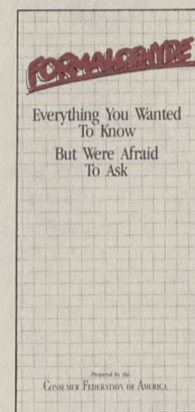
Unlikely. The retail market is intensely competitive. Any merchant trying to get away with the unfair use of surcharges would lose business to competitors who could offer both cash and credit customers a better deal.

It's time to tell the truth about credit card costs by allowing surcharges.

Credit costs extra. It should pay its own way.

Formaldehyde: Everything You Wanted To Know But Were Afraid To Ask

What is formaldehyde? Does formaldehyde cause cancer? Is there a safe level of exposure? These are the questions consumers are asking in the light of Federal government regulations concerning the use of formaldehyde in foam insulation and pressed wood products. These are also the questions answered in a new pamphlet, available from CFA.



Formaldehyde—Everything You Wanted to Know But Were Afraid to Ask is part of an educational campaign CFA is developing to help consumers cope with air pollutants in their homes. "Air pollution may be 10 times greater inside our homes as outside," said Anne Averyt, Product Safety Director for CFA, and author of the formaldehyde pamphlet. "As we make our homes more energy efficient and reduce the exchange of air, while increasing the number of toxic products in our homes, we may be trapping harmful pollutants and jeopardizing our health."

Formaldehyde is one indoor air pollutant that has received considerable national attention. It is used as an adhesive or "glue" in the manufacture of urea-formaldehyde foam insulation (UFFI) and pressed wood products like plywood, particleboard, medium density fiberboard and panelling. It can cause a number of short-term effects such as headaches, nausea, and respiratory problems, and has been linked to cancer in laboratory studies.

The CFA pamphlet, the first of its kind to explain the causes, risks, and solutions for formaldehyde problems, is available free from CFA. Send a self-addressed stamped business envelope to Formaldehyde, Consumer Federation of America, 1314 14th Street, N.W., Washington, D.C. 20005. Limited bulk quantities are available on request.

Beer Bill: Return of the Six-PAC

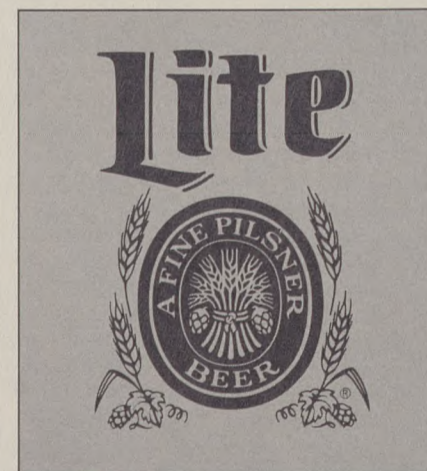
Millions of Americans watch television commercials in which two celebrities argue strenuously over whether their favorite beer "Tastes great" or is "Less filling." Meanwhile, in Washington, D.C. another group of celebrities—the U.S. Congress—must decide whether to add a third description: "Costs more." For, according to consumer groups and grocery chains, that would be the exact result of the legislation the beer industry has been pushing for the last two Congresses.

The Malt Beverage Interbrand Competition Act is better known simply as the beer bill. It would provide an anti-trust exemption allowing the beer industry to create a system of exclusive territorial monopolies for distributors of each brand of beer. Thus, Miller would be able to designate one distributor in a given area; no one else could legally distribute Miller brands.

"What the beer industry is asking for," said CFA Executive Director Stephen Brobeck, "is a license to raise beer prices. Studies from Indiana and New York indicate that exclusive territories can lead to price increases of up to 30%. If that were not bad enough, the beer bill continues the dangerous precedent of special interests seeking to exempt themselves from the anti-trust laws, which form the foundation of competition in our economy."

Brobeck cautioned consumers that they had better take the legislation seriously, even though it was unsuccessful in 1982. He pointed to the fact that the campaign contributions and extensive

grassroots political campaign of the brewers and beer wholesalers has once again produced a massive list of co-sponsors in both the House and the Senate. Right now, according to Brobeck, the industry groups are attempting to line up votes in the Judiciary Committees of both houses of Congress.



For its part, CFA has taken the issue to its own grassroots, seeking opposition to the bills from hundreds of consumer and public interest organizations around the country, through both mailings and a telephone campaign. "The message from back home must be clear," said Brobeck. "Congressmen and Senators must hear that their constituents do not want to see the antitrust laws bent to the needs of special interest groups. Neither do beer drinkers want to pay higher prices."

Product Liability Bill Advances

In a show of political support that surprised many observers, a coalition of manufacturers, insurance companies, wholesalers and retailers, persuaded the Senate Commerce Committee to report Senator Kasten's product liability bill (S. 44) by a vote of 11-5.

Voting for the bill, which has been opposed unanimously by consumer, labor and victim groups, were Senators Kasten (R-WI), Gorton (R-WA), Stevens (R-AK), Tribble (R-VA), Pressler (R-SD), Goldwater (R-AZ), Danforth (R-MO), Kassebaum (R-KS), Long (D-LA), Inouye (D-HA) and Exon (D-NE). Casting votes against the bill were Senators Packwood (R-OR), Hollings (D-SC), Riegle (D-MI), Heflin (D-AL) and Lautenberg (D-NJ).

Attention now shifts to the Senate floor, where the industry groups will push for a vote as early as late May. They will face a number of serious hurdles, according to CFA Legislative Director David Greenberg, including efforts by other committees to gain jurisdiction over the bill, a number of "holds" placed on the bill by opposing Senators, and threats of filibuster and other delaying techniques.

Also working in the consumers' favor, says Greenberg, is the fact that the Senate floor schedule is very busy with budget and appropriations bills which the Senate leadership views as much higher priority than S. 44.

If the bill is debated in the Senate, Greenberg believes that its controversial features may doom it in an election year. "How many Senators want to face the charge that they supported legislation to make it harder for people injured by dangerous drugs and chemicals to receive compensation?" asked Greenberg. "And how many Senators want to be responsible for a law that many observers say eliminates punitive damages for corporations engaging in recklessly dangerous behavior?"

Despite these controversial provisions, Greenberg warned that the opponents of S. 44 have underestimated its appeal in the past. Greenberg cited editorial commentary supportive of the bill in publications as diverse as *Business Week* and the *Washington Post* as evidence that support is building for passage. He also warned that since their solid victory in the Senate Commerce Committee, business groups have stepped up their lobbying activities on behalf of the bill.

Finally, although no legislation is moving in the House, Greenberg pointed out that support in favor of a Federal product bill has been forthcoming from key leaders of the Energy and Commerce Committee like Chairman John Dingell (D-MI), Subcommittee Chairman Henry Waxman (D-CA) and ranking minority member Joel Broyhill (R-NC).

NEW CFA STUDY: CWIP Short Circuits American Pocketbooks

On April 12, CFA issued the first in a new series of economic reports dealing with energy and utility issues. The 30-page report is entitled *The Consumer Economics of CWIP: A Short Circuit for American Pocketbooks*. It examines the impact on consumers of allowing utilities to recover the cost of financing projects by including construction work in progress (CWIP) in the rate base.

The report, written by CFA's new Energy Director, Mark Cooper, examines CWIP from four perspectives—rate of return, risk, alterations in utility investment choices, and impact on the structure of the utility industry. It concludes that CWIP distorts financial markets, economic incentives for investment, and the structure of the utility industry. "Thus, except where a utility is under severe financial distress, CWIP is an economic disaster for consumers," Cooper said.

According to the report, the CWIP issue has been thrust to the forefront of Congressional consideration by a decision of the Federal Energy Regulatory Commission to allow CWIP on an across-the-board basis in wholesale sales of electricity. The House of Representatives responded with an overwhelming vote (288 to 113) to overturn that decision.

The CFA study was released in conjunction with the start of Senate consideration of CWIP legislation. It will provide the basis for CFA testimony on the issue before the Senate Committee on Energy and Natural Resources,

scheduled for May 18.

By analyzing risk and rates of return, the report shows that the introduction of CWIP raises the possibility that unneeded plants will be completed and that construction efforts will be prolonged on plants that are ultimately decommissioned. By conducting what is known as "break-even" analysis, the study shows that even if CWIP raises the odds by only one chance in ten, consumers end up paying more for their electricity than they should.

The report also shows that in the last ten years industry grossly overestimated its capacity needs. With perhaps \$100 billion in construction projects presently overhanging a market that already has excess capacity, the report concludes that "the absolute last thing that the rational consumer would want to do is give the industry an added incentive to build."

The study also points out that small, less capital intensive approaches to meeting energy needs serve the consumer much better. In addition to being lower in cost and posing less of a threat to the environment, they have shorter lead times and diverse methods of meeting energy needs, thereby creating better flexibility in our energy infrastructure.

Finally, the report explains how CWIP could weaken consumer protection mechanisms in the industry:

First, it would squeeze publicly and cooperatively owned utilities who are large, wholesale customers of the investor owned utilities, and reduce their



Dr. Mark Cooper, CFA's newly appointed Energy Director (second from left), discusses "The Future of Electric Utilities" last month on *Flashpoint*, a PBS television series. A former Fulbright fellow with a Ph.D. from Yale University, Dr. Cooper is the author of numerous articles and books including *Equity and Energy* (Westview Press, 1983) and *The Transformation of Egypt* (Johns Hopkins University Press, 1982). Before coming to CFA, Cooper served as the Research Director for the Consumer Energy Council of America, then as head of his own public interest research firm, Citizen Research.

competitive effectiveness.

Second, the investor-owned utilities would rush to set up generation and transmission subsidiaries that specialize in wholesale transactions which are beyond the control of the states. "The net effect would be to give the utilities

greater opportunity to abuse their market power," Cooper pointed out.

"The report concludes that CWIP fails to pass muster on every count because it is simply an effort to bail out utilities that embarked on unwise overbuilding programs in the past," he said.

CFA Urges HUD to Adopt Strict Formaldehyde Limits

The Consumer Federation of America called for the adoption of strict emission levels for formaldehyde off-gassing in mobile homes, in comments submitted in April to the Department of Housing and Urban Development.

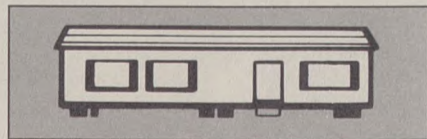
HUD has proposed emission levels for wood products used in the manufacture of mobile homes that would achieve indoor air levels of 0.4 parts per million (ppm) of formaldehyde. CFA charged in its comments that this level of emissions is far too high to provide "reasonable protection"—the criteria established by HUD for its rulemaking.

According to CFA's comments, nearly all the scientific and international standards for formaldehyde emissions establish ambient levels close to 0.1 ppm. While there is no known level at which everyone is safe from the adverse effects of formaldehyde, the CFA submission documents many adverse effects that have been reported at levels far below the 0.4 ppm level HUD is advocating. CFA has long supported indoor air levels of formaldehyde that do not exceed 0.1 ppm.

In addition, according to Product Safety Director Anne Averyt, small children and elderly or sick persons are at much higher risk from formaldehyde and this is the population that pre-

dominates in mobile homes. "So health standards should be even more stringent, not less stringent," she said.

"The industry has made a great deal of progress in lowering formaldehyde emissions," Averyt added. "In fact, new conventional homes in the near future will have levels of emissions at or below the 0.1 ppm we are advocating. But it is essential that the technology continue



to be developed to lower mobile home emissions as well. If the commitment is there, the industry can bring down the emission levels in mobile homes just as they are now doing in conventional homes."

In its HUD comments, CFA also advocated adoption of a warning, jointly agreed upon in February with the Manufactured Housing Institute. HUD has already communicated to CFA and MHI that it hopes to adopt the warning in its final rule. CFA also called on HUD to require that the warning be prominently displayed in mobile home units on dealer lots, and included in information distributed to prospective buyers.

Consumers Union Wins Major Libel Suit

Consumers Union, publisher of *Consumer Reports* and a founding member of Consumer Federation of America, won a major libel suit before the Supreme Court in late April. The high court upheld a lower court ruling that there was inadequate evidence to justify a \$210,000 libel judgment against CU for its critical review of a stereo speaker which *Consumer Reports* stated allowed sound to "wander around the room."

"This decision is vitally important not only for Consumers Union, but for all Americans who are concerned with the First Amendment and maintenance of a free press," said Rhoda H. Karpatkin, Executive Director of the non-profit organization. CU won its Appeals Court decision, overturning a District Court ruling in favor of the stereo manufacturer, on the basis of First Amendment review and because the manufacturer never established "actual malice" on CU's behalf.

CU, which is headquartered in Mt. Vernon, N.Y., has been testing and evaluating products for readers of its monthly *Consumer Reports* magazine

since May, 1936. *Consumer Reports* has a monthly circulation of 2.8 million. Karpatkin, and members of CU's regional offices, have been leaders in the consumer movement for many years.



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CPSC Retains Hazardous Export Controls

REGULATORY NEWS
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In a major victory for consumers worldwide, the Consumer Product Safety Commission voted 3 to 1 in mid-May to continue its policy restricting the export of banned or non-complying products. Commission Chairman Nancy Harvey Steorts, who said that the "Made in the U.S.A." label should not be compromised and that the CPSC has clear authority to prohibit hazardous exports, and Commissioner Stuart Statler, who throughout the debate has expressed grave concern over the implications such a policy reversal would have for both American consumers and consumers abroad, were joined in their vote to continue the CPSC's current export control policy, by the CPSC's newest member, Commissioner Saundra Armstrong. The lone dissenter was Commissioner Terrence Scanlon.

"This vote is a victory for us all," said Anne Averyt, Product Safety Director for CFA. "The proposed change was bad public policy and had no real legal or legislative basis. The Commission's strong action, reaffirming its commitment to protect consumers' health and safety, is a loud message to the rest of the world that at least one U.S. agency is determined to serve the public good."

CFA organized a coalition of public interest groups and individual consumer advocates which testified at a public hearing on the hazardous export issue before the Commission in April. Each of the seven groups represented at the hearing expressed strong opposition to a relaxation of the Commission's export policy. Averyt and other speakers warned that such a policy reversal would decrease the incentive of American companies to make safe products, if they know they can recoup their financial losses by shipping non-complying products overseas. In addition, said Averyt, budget cuts have already severely hampered the Commission's ability to police the marketplace, and an increase of unsafe products may further strain already scarce financial and manpower resources. "The policy proposal doesn't serve the long run interests of the business community either," Averyt added, "because the world market will soon become suspicious of the 'Made in America' label and could even respond with tougher trade restrictions on American goods."

Traditionally, the Commission has interpreted its mandate to include the authority to restrict the export of severely hazardous products. But Commissioner Terrence Scanlon raised the question whether in fact Congress ever meant to give such authority to the Commission. In a strongly worded letter, Congressman Henry Waxman (D-CA), chairman of the CPSC oversight committee, and author of the legislation under question, sharply criticized the Commission's consideration of the issue. Waxman called the proposed policy reversal "a brazen attempt to legis-

late through regulation," and told the Commissioners that if they want to change the current export policy, "I urge you to submit those legislative requests for consideration by Congress."

Although Commissioner Scanlon called for the policy change based on legal and legislative questions, Mark Silbergeld, Director of the Washington office of Consumers Union, and Art Delibert, Director of Citizens Committee for Fire Protection, challenged Scanlon's interpretation at the public hearing and showed that both legal and legislative history support the Commission's historic position of restricting hazardous exports.

Esther Peterson, former Presidential assistant and currently U.N. representative on hazardous exports for the International Organization of Consumer Unions, told the Commission hearing that the issue is not a legal one—it is a matter of public policy: "Third-world delegates at the United Nations ask me—'If Tris-treated children's pajamas cause cancer in America, don't they cause cancer in my country too? Isn't the U.S. setting a double standard?' " Peterson headed the Carter Administration Task Force on Hazardous Exports which forged the first coherent U.S. policy on this issue. In one of its earliest official acts, the Reagan Administration rescinded that policy, and it has yet to establish any set policy on hazardous exports.

Public interest groups represented at the Commission hearing also included Health Research Group, Women's Health Network, National Consumer's League, INFAC, and a letter from Rhoda Karpatkin, Executive Director of Consumers Union and Vice-President of the International Organization of Consumer Unions. Several CFA state and local groups also submitted letters including Milwaukee Concerned Consumers League and Consumers League of Ohio. In addition to Congressman Waxman, Representative Michael Barnes (D-MD), and Senator Howard Metzenbaum (D-OH) submitted letters opposing the policy switch.

"This issue mobilized a broad-base of public interest groups and individuals," noted Averyt. "The outpouring of concern was tremendous, as was the amount of space the press gave in its coverage of the debate. Ironically, there was very little comment from the business community on the issue. This was not a special interest group issue. Nor was it a legal issue, where the Commission was overstepping its authority. It was a policy issue that went to the heart of what the Consumer Product Safety Commission is all about—protecting consumers. By their vote, the Commission let us know they intend to do their best to continue keeping unsafe products out of American homes and out of the homes of consumers in developing countries. At a time when victories for consumers are few and far between, this victory is particularly reassuring."

Natural Gas Issue Revived In Congress

After six months of apparent inaction, the natural gas issue has come back to life in Congress. On April 12 the House Committee on Energy and Commerce voted to report out the Sharp-Madigan bill and sent it to the Rules Committee to await floor action.

Although the bill leaves a great deal to be desired from the consumer point of view, it does not contain old gas decontrol, which prompted one industry representative to call it "a disaster." The Reagan Administration, which hoped the issue would go away in a Presidential election year, was not pleased either because, when the bill moves to the floor, it will certainly provide an opportunity for a vote on the much more proconsumer Gephardt/Glickman bill (The Natural Gas Consumer Relief Act; H.R. 2154).

Compared to the Consumer Relief Act, which has 157 cosponsors, the weaknesses in Sharp/Madigan are legion. According to Mark Cooper, CFA's new Energy Director, it does not roll back or extend ceiling prices on new gas or extend the power of Congress or the President to reimpose controls. In addition, it fails to reform the basic contracting process in the gas industry; it does not eliminate price escalators, which have tied the price of gas to the cartel-set price of oil, and it does not give pipelines the right to market out of high-priced contracts.

Sharp/Madigan leaves the Federal Energy Regulatory Commission (FERC) with tremendous discretionary powers, the very powers that have been used to relentlessly raise the price of gas since the Natural Gas Policy Act was passed in 1978," Cooper pointed out. "For example, it allows FERC to raise old gas prices on a case-by-case basis and to create new categories of decontrolled gas. It leaves the ceiling price on high cost gas to a negotiation/arbitration procedure, rather than setting a specific lower ceiling than currently exists. Production cost add-ons, which producers frequently request, would not be subject to just and reasonable criteria."

Although it was a feat to get a bill out of Committee, the obvious weaknesses of the bill mean a major floor fight over a more proconsumer bill is likely.

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