April 3, 2003

The Honorable Senator Pete V. Domenici
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Industrial Energy Consumers of America (IECA) thanks you for your leadership and recent committee action to advance legislation dealing with our nations’ energy needs, which is a requirement for sustained economic growth. The purpose of this letter is to provide you with feedback regarding the March 25, 2003 “staff draft.” While there are many very good provisions that can result in increased energy supply over the next 2-5 years, provisions are needed that provide relief sooner. IECA would like to offer the following recommendations and comments on the March 25 draft.

IECA is very concerned over provisions that further increase demand for natural gas. The ethanol mandate, the alternative fuels mandate (natural gas is an alternative fuel plus others are often derived from natural gas) and the thrust to increase use of hydrogen will all significantly increase demand for natural gas. Given the fact that we are in a natural gas crisis and our country’s historic failure to increase supplies, we encourage Congress to reconsider all such provisions. Congress should not approve energy related legislation without thorough study of the total cost and benefit, giving consideration to whether adequate supplies of natural gas are available and what price impact the additional demand will have on all consumers.

The Industrial Energy Consumers of America (IECA) is a nonprofit organization created to promote the interests of manufacturing companies for which the availability, use and cost of energy, power or hydrocarbon feedstock play a significant role in their ability to compete in domestic and world markets. IECA strongly supports a robust, diverse and affordable supply of energy. IECA is unique in that it’s members are exclusively industrial consumers. IECA is the only trade association dedicated to energy and related environmental issues and represents a diverse set of industries including: plastics, cement, paper, food processing, chemical, fertilizer, insulation, steel, industrial gases, pharmaceutical and brewing. IECA board members are senior energy procurement managers.
Recommendations for short-term relief (1 year or less) that is not included in the staff draft

- Conduct a lease sale for natural gas in the eastern Gulf of Mexico planning area encompassing all lands located within the original area identified as available for leasing consideration for Sale 181 in the final 1997-2002 Outer Continental Shelf Oil and Gas Leasing Program. This is needed to not only provide opportunities to find large new reserves, but to provide investor confidence in the future of the natural gas markets.

- Add a provision that would require Congress to complete a cost and benefit analysis of any provision that may result in additional demand on natural gas. It is particularly important to evaluate all mandates and subsidies. The provision would be directed at evaluating the impact of such demand and resulting prices that would be paid by all consumers.

- Place a moratorium on new natural gas fired power plants that do not use combined heat and power technology (CHP) until production of natural gas increases to meet forecasted demand and normal storage inventories are maintained.

- Initiate a FERC rulemaking process to establish a “natural gas price index” to bring accuracy, integrity and accountability to how natural gas prices are being reported and communicated to the market. Give FERC clear authority to: require companies who trade natural gas above a certain volume to report their cash transaction prices to the FERC; keeping price information confidential; FERC would then publicly report aggregate price information via an electronic bulletin board. We believe this is the only alternative to overcome market manipulation.

- The Congress should request a study to explore alternatives to reducing volatility and increased volume in outer months on NYMEX natural gas trading. The study shall provide Congress and other agencies who have monitoring and oversight jurisdiction with alternatives ways in which the NYMEX can operate that will reduce volatility and increase volume in outer months. Severe volatility creates unstable markets for financing natural gas production. The study shall consider the operation of the Chicago Board of Trade, how agricultural commodities are traded, how the market and the Department of Agriculture act to bring stability into those markets.

- Ethanol Mandate- Congress should not mandate any legislation without first studying the impact on increased demand for natural gas. We believe the ethanol mandate is a good example. Traditional ethanol production requires natural gas for additional fertilizer, drying and refining of ethanol. Mandating increased ethanol demand will significantly increase demand for natural gas putting even further pressure on a shortfall of natural gas and have a negative impact on all consumers. Good public policy weighs “all” of the benefits and costs.
• Oppose extending moratorium on exploration and production.

• Congress should pass a Sense of the Congress that the Bush Administration engage in immediate bilateral negotiations with Mexico to allow exploration and production access to their natural gas reserves. With each ensuing day, Mexico becomes more dependent on U.S. supply. A Sense of the Congress will send an important signal to the market.

Recommendations that will have a positive impact in 2-3 years

• Alaska Natural Gas Pipeline- In the event that after 18 months private industry has not developed a project, the government should do it.

• Embrace President Bush’s national goal of doubling CHP capacity by 2012, significantly increasing energy efficiency, reducing air emissions and increasing reliability of the electricity grid. The Bush National Energy Policy contemplates an additional 124,000 megawatts of new capacity at industrial facilities. Without the below provisions, the President’s vision cannot be achieved.
  o Initiative provisions that set a national goal of doubling CHP capacity by 2012. CHP is the most energy efficient commercial technology for producing power, emits fewer air emissions and carbon dioxide per kWh and increases the reliability of the grid.
  o Do not repeal the Public Utility Regulatory Policy Act (PURPA). Add provisions that prevent above market prices for sale of PURPA power.
  o Allow new CHP plants a three-year write off. (This will also bring the U.S. more in line with other countries, as well)
  o Provide a tax credit for new CHP plants. (This was done in the 80’s with remarkable results)
  o Establish a national interconnection standard for all sizes of CHP facilities. (This will make it easier, quicker and less expensive for CHP facilities to be connected to the grid)
  o Provide for FERC rulemaking that would expedite permitting of CHP facilities.

• Establish the Strategic Natural Gas Reserve (SNGR) the reserve would be used to supplement supplies of natural gas during shortages to help prevent the devastating economic chaos that has occurred twice in the past three years. These price spikes resulted in severe penalties to the economy, significant job loss and painfully high costs for all consumes. If we had a SNGR, these costly incidences would have been avoided. Also, there is precedence for such market intervention in the agricultural area where-by the government intervenes when prices go too high, to the detriment of the welfare of the economy and all consumers.

• Congress should codify Executive Order EO 13212 and EO 13211 to expedite increased energy supply and availability to the nation by 1.) considering the effect of federal regulations on the nation’s energy supply, distribution and use, and 2.) ensuring “energy accountability “ within federal resource management agencies.
• Coal Gasification for Electricity Generation - The success of this technology cannot be understated. We must commercialize this technology for purposes of using our large reserves of coal in an efficient and environmentally acceptable manner. IECA also supports Federal funding of RD&D of this technology. Short of Congressional legislation for commercialization and RD&D, we believe the electric utility industry would continue to use “conventional” coal technology with the result that new electricity demand would be met by greater natural gas-fired generation.

• High Fossil Technology Case - EIA projects a high fossil technology case that results in higher electricity generation capacity additions; higher electricity generation; lower emissions (including carbon); and lower natural gas consumption. IECA supports RD&D and commercialization programs to achieve performance results under the high fossil technology case. This will promote the most advanced coal technology, as well as support the most advanced forms of natural gas technology.

• Wind Energy Technology- The DOE Wind Energy Program, much like the Clean Coal Program has invested millions in wind energy technology yet too few reach commercialization because of inadequate amounts invested in the Wind Energy Field Verification Program. Without field verification, the technology does not become commercial. Because the technology is not commercial, private companies with such technology cannot attract the financial capital to commercialize the technology, a catch 22. Taxpayers are paying millions each year to subsidize every kWh of wind energy and this Congress plans to extend the subsidy for even longer periods of time. One hundred percent of all large wind turbines are produced offshore. If commercialization of these technologies occurs, the subsidy will not longer be necessary and the wind turbines can be produced in the United States. IECA supports more funding for the Wind Energy Field Verification Program, not subsidies.

Sections of the Staff Draft that IECA supports because it provides potential increased natural gas supply over the next 2-3 years.

• Section 104 Marginal Well Production Incentives
• Section 106 Royalty Relief for Deep Water Production
• Section 110 Incentives for Natural Gas Production from Deep Wells in the Shallow Water of the Gulf of Mexico
• Section 111 Alternate Energy–Related Uses on the Outer Continental Shelf
• Section 123 Coordination of Federal Agencies to Establish Priority Energy Transmission Rights of Ways
• Section 133 Issuance of Certificate Public Convenience and Necessity. (With the exception of provisions that prohibits FERC from approving a Northern pipeline route through Canada. Pipeline routes should not be mandated.)
• Section 601 Energy Management Requirements (However, IECA recommends a more accelerated rate of energy efficiency improvement starting with a 5 % improvement by 2005.)
Sections of the Staff Draft that IECA does not support.

- Title XII Electricity (IECA opposes almost all of the language in this title and in particular, does not support repeal/reform of PURPA or repeal of PUHCA.
- Section 133 Issuance of Certificate Public Convenience and Necessity (IECA supports the section with the exception of the provision that prohibits the FERC from approving a Northern pipeline route through Canada. Pipeline routes should not be mandated.)
- Section 135 Pipeline Expansion (IECA believes these criteria are potentially counter-productive. Financial stability of a pipeline company is not the responsibility of the FERC.)
- Section 441 Emission-Free Control Measures Under a State Implementation Plan (There is no justification for rewarding nuclear plants with air emission allowances. Rewarding nuclear plants with criteria air pollutant allowances would make it more difficult for other energy sources, including those used by industrial energy consumers to receive the emission allowances necessary to continue operation.)
- Section 502 Renewable Energy Production Incentive (IECA supports increased use of renewable energy. IECA does not support the Renewable Portfolio Standard mandate. Renewable energy should compete on a cost basis with all other generation. IECA supports inclusion of open loop biomass sources in the definition of “renewable.” Inclusion promotes a diversified energy supply portfolio.)
- Title VII Transportation Fuels- (IECA does not support the inclusion of both natural gas and propane as an alternative fuel. Both are in short supply and are too valuable for use as a highway fuel.)
- Title VIII Hydrogen- (IECA supports R&D and use of hydrogen as a future source of energy. However, if natural gas is used as the fuel to produce the hydrogen, such programs are counterproductive if not harmful to the well being of natural gas consumers. Given the fact that U. S. production has been flat since 1995, provisions should be made to provide alternative sources of methane.)
- Title XI Climate Change- IECA does not believe this title is needed given the President’s Climate Initiative that has secured the support and commitment by all major industries to take action to control their greenhouse gas emissions. The staff draft goes well beyond President Bush’s Climate Change Initiative. Most importantly, these provisions puts in place a legal framework for ghg credits that while voluntary, will have the impact of driving all corporate energy decision making to fuel-switch to natural gas. This provision will further aggravate the natural gas crisis that has resulted in the doubling of natural gas prices this winter, driving jobs overseas, stalling economic growth and increasing U.S. unemployment.

IECA believes the Senate Staff draft has misinterpreted the definition of transferable credits as described by President Bush’s Climate Initiative. The Staff Draft would: require the establishment of a significant new and costly bureaucracy to evaluate and award transferable credits; and sets up a system to follow the trading of the certificates globally via serial numbers rather than letting markets
work, as intended by the President. Defining transferable credits in this manner puts the government at financial risk because the government guarantees that an emission has been reduced, which it cannot do accurately, but instead rely upon the good faith of the company who submitted the ghg reduction information. If the Congress plans on going forward with this provision, it must include an equivalent provision to H.R. 3763, Sarbanes-Oxley Act of 2002 to prevent fraud and Enron-like practices.

The President’s Climate Initiative had envisioned providing companies who register their ghg emissions with the DOE GHG Registry a document receipt that proves that the company submitted such information. If a company wishes to use their ghg emission reductions for purposes of emissions trading, it would seek the necessary third party certifications and trade such certificates in the market place. The President’s plan did not intend to have the government intervention into the market as described in the Staff Draft.

IECA looks forward to working with you and your staff to craft legislation that will result in a robust, diverse and affordable supply of energy.

Sincerely,

Paul N. Cicio

Copy:
Senate Energy and Natural Resources Committee
Senate Environment and Public Works Committee
Senate Leadership