

Testimony of Nils Nichols

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Commission**

Hearing of the U.S. Senate Committee on Energy and Natural Resources:

“Short on Gas: A look into the propane shortages this winter”

May 1, 2014

Chairman Landrieu, Ranking Member Murkowski, and Members of the
Committee:

My name is Nils Nichols and I am the Director of the Division of Pipeline Regulation within FERC’s Office of Energy Market Regulation. I am here to discuss FERC’s jurisdiction over propane and FERC’s actions in response to the propane shortage that occurred this past winter.

FERC has jurisdiction over the transportation of oil and other petroleum products by pipeline. This jurisdiction is conferred by the Interstate Commerce Act. There are generally two types of oil pipelines that FERC regulates. One is pipelines transporting crude oil. The other is pipelines transporting a variety of refined oil products such as gasoline, diesel fuel, jet fuel, and natural gas liquids, which includes propane. Both types of pipeline are referred to as “oil pipelines.”

The relationship between an oil pipeline and the shippers on the line is governed by the pipeline’s FERC Tariff, which sets forth the pipeline’s rates and its terms and conditions of service. Broadly speaking, FERC’s statutory mandate is to ensure that a pipeline’s rates are just and reasonable, and that it provides

services in a manner that is neither preferential for anyone nor unduly discriminatory.

Turning now to propane itself, it is important to understand the scope of FERC's jurisdiction. First, FERC has no jurisdiction over the commodity propane, including its price. Second, FERC does not have jurisdiction over the storage or the marketing of propane. And finally, though FERC does regulate propane pipeline transportation, it does not have a role in the actual day-to-day pipeline operations.

As the Members of this Committee know, during this past winter, the supplies of propane in the Midwest and Northeast became critically low. In January, FERC Staff was contacted by representatives of the National Propane Gas Association who were concerned that propane supplies might actually run out in the Midwest and Northeast. The Association indicated in particular that Enterprise TE Products Pipeline Company, which is a pipeline that transports propane and other refined products to the Northeast and Midwest, might be able to transport enough propane to help alleviate the shortages if FERC could direct it to give propane shipments priority over the transportation of the other products it handles. The Commission Staff was also contacted by Enterprise and at that point encouraged Enterprise and the propane shippers to work informally to find ways to transport more propane within the terms of Enterprise's FERC Tariff.

At the same time, the Commission began participating in a number of ad hoc federal and state task forces that were organized to monitor the propane shortage situation and to explore possible solutions. FERC Staff engaged in phone calls with other federal agencies, agencies and officials in the affected states, as well as phone calls coordinated by the White House. FERC Staff also responded to

inquiries from this Committee, the House Commerce Committee, and Senators and Congressmen from the affected states.

Some pipelines serving the Midwest responded to the crisis with voluntary filings to be able to act under their FERC Tariffs to flow more propane to the affected areas. These filings were promptly approved by the Commission.

On February 6, 2014, the National Propane Gas Association and its members filed a request for emergency relief to direct Enterprise to temporarily provide priority treatment to propane shipments from Mont Belvieu, Texas to locations in the Midwest and Northeast. The Commission issued a notice on the same day and requested comments on an expedited basis. The next day, on February 7, 2014, the Commission determined that an emergency existed requiring immediate action and issued an order directing Enterprise to provide seven days of priority treatment for propane shipments to help alleviate the propane shortage. This action was taken under a section of the Interstate Commerce Act that gives FERC the power to act when it is of the opinion that there is an emergency requiring immediate action. This was the first time that FERC has exercised such authority under the Interstate Commerce Act.

In conjunction with the emergency order, FERC Staff conducted alternative dispute resolution discussions with the National Propane Gas Association and Enterprise TE Products Pipeline Company to determine if a longer-term, voluntary solution to the propane shortages could be achieved. As a result of these discussions, the parties submitted filings reflecting their agreement that the emergency order be extended for another seven days. The next day, on February 11, 2014, the Commission issued an order extending priority treatment for propane shipments for an additional seven days. The Commission's and stakeholders'

actions appear to have been successful, as no further action by the Commission with respect to propane supply was required this past winter.

I appreciate the opportunity to testify before this committee on behalf of FERC and would be happy to answer any questions that you have.