674

RESIGNATION OF THE DIRECTOR OF THE OFFICE OF CONSUMER AFFAIRS, FEDERAL ENERGY ADMINISTRATION

HEARING

BEFORE THE

SUBCOMMITTEE ON CONSUMER ECONOMICS

OF THE

JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES

NINETY-THIRD CONGRESS

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CONTENTS

WITNESSES AND STATEMENTS

FRIDAY, AUGUST 16, 1974

SUBMISSIONS FOR THE RECORD

FRIDAY. AUGUST 16, 1974

RESIGNATION OF THE DIRECTOR OF THE OFFICE OF CONSUMER AFFAIRS, FEDERAL ENERGY ADMINISTRATION

FRIDAY, AUGUST 16, 1974

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON CONSUMER ECONOMICS
OF THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:40 a.m., in room 1202, Dirksen Senate Office Building, Hon. Hubert H. Humphrey (chairman of the subcommittee) presiding.

Present: Senators Humphrey and Metzenbaum.

Also present: Loughlin F. McHugh, senior economist; William A. Cox, Robert D. Hamrin, and Jerry J. Jasinowski, professional staff members; and Michael J. Runde, administrative assistant.

OPENING STATEMENT OF CHAIRMAN HUMPHREY

Chairman HUMPHREY. The meeting of the Subcommittee on Consumer Economics is called to order. I might add that the purpose of this subcommittee and its staff is to keep a watchful eye on developments in the economy. Needless to say, that means that we are looking at it most of the time, because the developments today in our economy are freightening, and at a minimum, very disturbing.

At the very heart of our inflation problem are two elements. One is energy and the other is food. Yesterday we were dealing with the problems of the food shortages, particularly in the very distressing and depressing feed grain crop reports of this past week. We held hearings yesterday in the Committee on Agriculture and Forestry on that subject.

The Department of Agriculture continues to believe that it will have very little impact upon prices. I don't quite understand what they think is necessary to have an impact on prices. While this is not within your subject, may I say that a shortage of feed grains will have a tremendous impact on the price that everybody in this room, and millions more like them, are required to pay at the supermarket.

So we have another inflationary factor that has devastating implications. I look upon the crop report of August to be an economic time bomb waiting to explode sometime in early 1975. And it will be some explosion.

The stock market has already reacted to this inflation. It has been dropping. The investors know what is in store for them. The only hope that we have now to alleviate these conditions is favorable weather, and the blessing of the Lord to bring us a good crop.

Getting away to another area, the matter of fuel and energy is of critical importance to the American economy. It touches every aspect of our economic life, and indeed much of our social life.

The prices of fuel oil and propane and diesel fuels, distillates, jet fuel, gasoline, have skyrocketed in the last 19 months, or indeed in the last 18 months. We are, as we see it, not at the end of the life as yet, despite the fact that the morning press indicates that there is a surplus of oil. There is obviously a surplus of gasoline, but in the instance of the oil industry it does not seem to be affected by what they call the forces of the marketplace. If you have a shortage of corn, prices go up. If you have an abundance of corn, prices go down. If you have a shortage of eggs, prices go up. If you have an abundance of eggs, prices go down. If you have a shortage of fuel, prices go up. If you have an abundance of fuel, prices stay up. So it is what we call in the economic jargon, administered prices.

I gather that it was your responsibility and obligation as an officer of the Federal Energy Administration, the former Director of the Consumer Affairs Office, to watch out for the interest of the consumers. Now, consumers are not just those that drive automobiles, but they are public utilities, they are farm operators, and industrial combines. So your testimony here today is going to be of great importance. I thought we ought to look into the situation to see why you resigned and to hear your story.

We also have Mr. Sawhill. I don't see him here yet, but he will be here. We are going to hear from the Administrator of the Federal Energy Administration, and I hope that you might see fit to stay through.

This hearing today is an unusual one for the Consumer Economics Subcommittee. It has been brought out, as I have indicated in my preliminary remarks, by the resignation of Mr. Lee Richardson, who is with us here, the former Director of the Federal Energy Administration's Consumer Affairs Office; and the hearing is called because of several charges that have been made by Mr. Richardson in the process of resigning his post. The hearing is not concerned with the personal aspects of Mr. Richardson's resignation, but with the substantive issues raised by that resignation.

There are numerous substantive issues that have been raised by Mr. Richardson's resignation. For example, he charged "that the impact of the energy policy on consumers has been ignored by FEA." And I quote again: "That there has been no careful analysis of whether oil prices for profit increases have been justified."

And last, that the issues and recommendations raised by the Office of Consumer Affairs did not get a hearing in FEA.

I would like to ask a member of the staff to get me the Washington Post of this morning. Just the first section, I don't need the sports page.

I am disturbed by such charges as made by Mr. Richardson because of my concern that consumer interests be adequately protected in the formulation and implementation of our national energy policy. Mr. Lee Richardson's letter of resignation strongly states that this has not occurred. I do not know if he is right, partially right or wrong. I draw no judgment. I believe that it is in the public interest, however, to have these questions on the record, and to have the questions responded to or answered by the Administrator of the Federal Energy Administration. It is in that spirit that we open today's hearings.

I should also note that on the front page of the Friday, August 16, Washington Post, appears a lead story by Marilyn Berger entitled: "State Department Balks at Study of Oil Firms."

Officials at the State Department have tried to block an independent study of multinational oil companies that had been actively resisted by those companies.

This was revealed in closed testimony given Wednesday to the Senate Subcommittee on Multinational Corporations by Federal Energy Administrator, John C. Sawhill.

A contract for the study was let by the Federal Energy Administration to determine the options open to the U.S. Government as it develops an energy policy.

After first seeking to stop the study, it was learned yesterday, the State Department has now given its assent, but has attached extraordinary conditions to its approval. FEA sources said the Department is seeking to require that the investigators have no conversations with any official of any foreign government or foreign firm, either abroad or in the United States, unless there is prior clearance from the State Department.

The memo containing the conditions was signed by Wiliam G. Hyland, Director of Intelligence and Research, according to FEA officials. The FEA is now preparing its reply.

The study was designed to focus on the historical role of international oil companies and what their future is likely to be as producer countries increasingly seek to assert themselves—and what the U.S. Government's policy ought to be.

I will ask that that entire article be incorporated at this point in the record.

[The article follows:]

[Reprinted from the Washington Post, Aug. 16, 1974]

STATE DEPARTMENT BALKS AT STUDY OF OIL FIRMS

(By Marilyn Berger)

Officials at the State Department have tried to block an independent study of multinational oil companies that had been actively resisted by those companies.

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The study was designed to focus on the historical role of international oil companies and what their future is likely to be as producer countries increasingly seek to assert themselves—and what the U.S. government's policy ought to be.

The role of the American-dominated multinational oil companies has become a subject of major controversy in world energy discussions. At the same time the companies have become unusually sensitive to any scrutiny.

Sen. Frank Church (D-Idaho), chairman of the subcommittee, and Sen. Clifford Case (R-N.J.), Senate sources said, are expected to send a letter today to Secretary of State Henry A. Kissinger to support the independent review of the multinational oil companies and to ask for an explanation of the effort to block it by the U.S. embassy in Venezuela.

There is no evidence that Kissinger or Deputy Secretary Robert S. Ingersoll played a role in the move to block the study. A State Department official said specifically that these top officials knew nothing about it although they met with oil company officials periodically.

A State Department official said phase one of the study, an exploratory phase, was approved at the "desk level" on July 3. Robert Krueger, a Los Angeles attorney who is a specialist on the law of the sea, had signed the contract with the FEA for the study, which would be carried out in Venezuela, Britain, France, Japan and Canada. Caracas was Krueger's first stop since he was there also to attend the Law of the Sea Conference.

FEA officials said it had been agreed with the State Department that because of the potential sensitivity of the study Krueger was under instructions to proceed first to the U.S. embassy in each country first to have discussions there with American officials and then to interview foreign government officials if the embassy concurred. He was not to have any interviews if the embassy did not concur.

Krueger, reached in Honolulu yesterday, said he followed these instructions when he went to Venezuela the week of July 8. But a State Department official said that Krueger, working under the FEA contract, met with foreign government officials and that U.S. Ambassador Robert McClintock "heard about it, and recognizing that these were sensitive questions and a sensitive issue asked him to stop subject to clearing it through the bureaucracy."

Krueger said he had never gotten to see any foreign officials because officials at the embassy had refused to make the appointments, which he was instructed to ask them to do. FEA officials said Krueger did see officials of oil companies in Venezuela and when he saw them they had already received papers he had left with the embassy to be distributed to the companies.

Krueger said he was told by McClintock that Rawleigh Warner, the chairman of the board of Mobil Oil Corp., who was also in Venezuela at the time, had been in to see him and told him that the company was "negatively disposed" to the study, in Venezuela and elsewhere. Krueger said that since that time Mobil has been cooperative. Krueger said McClintock also told him that Robert Dolph of Creole petroleum, a subsidiary of Exxon, had told the embassy that any discussion for the study with Venezuelan officials "would cut them off at the knees."

Krueger said he was then advised by the embassy that McClintock had cabled the State Department asking for instructions about what to do about him and the study, and recommending that the FEA request him to return immediately to the United States. FEA officials said they complied with the request, and Krueger and an associate were recalled.

Krueger said he then met with McClintock twice on July 13, before his departure, to get assurances he could return in order to serve as a delegate to the Law of the Sea Conference to which he had been assigned. McClintock agreed to this request, Krueger said.

FEA officials said they agreed immediately to State's request because they recognized that this was a particularly sensitive time in Venezuela where newspapers were headlining testimony given that week by Under Secretary of the Treasury Jack F. Bennett warning about takeovers of oil companies.

It was also feared that a series of questions to Venezuelan officials could lead to a prejudicial decision on reversion of the oil companies to governmental control.

A State Department official said the study project had to be submitted to the Interdepartmental Research Council for approval so that departments could comment on it. Phase II of this study, the official said, was submitted on July 11 for review. On Aug. 5 two bureaus of the State Department sent memos of objection. Subsequently a compromise was reached and the memorandum giving the conditions was sent on Aug. 13.

Chairman HUMPHREY. Do we have a copy of Mr. Richardson's letter of resignation?

We will include that in the record at this point.

[The letter follows:]

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., August 8, 1974.

Memorandum:
Subject: Resignation
To: John C. Sawhill, Administrator.
From: Lee Richardson, Director, Office of Consumer Affairs.

I am leaving the Federal service following completion of a two year leave of absence from the Louisiana State University. I, therefore, submit my resignation as Director, Office of Consumer Affairs, to be effective September 1, 1974. It is with regret that I have to make this decision at a time when the full potential of the FEA Office of Consumer Affairs has not been realized. The reasons behind this action, I believe, are quite substantive, and I urge you now to structure the consumer interest into the management of the entire Federal Energy Administration.

The creation of the FEO in early December, 1973 was accompanied almost immediately with announcement of appointments to the Administrator's high level Consumer Advisory Committee. The membership of this Committee has come to consist of a most representative high calibre group of 28 consumer and public interest advocates. While this Committee under its able chairperson, Lee White, head of the Consumer Federation of America's Energy Task Force, was as fine a consumer advisory group as has been assembled at high levels of the government since 1969, its early promise floundered in FEO bureacracy. The Committee members rightfully protested their inability to even communicate with FEO at a time when FEO made decisions that cost consumers billions of dollars. On March 13, 1974, Administrator Simon and you, as his Deputy, both appeared before the Committee to create the Office of Consumer Affairs.

As I had served in several offices of FEO since late November, 1973 as part of the major commitment to FEO of Virginia Knauer's Consumer Office at DHEW, I agreed to serve on loan from her Office as Director.

Three major commitments were made by FEO to consumers in the creation of the new office. First, the Office would report directly to the Administrator. Second, the Office would reach into the entire decision-making process of FEO. Thirdly, the Office would have an adequate size staff consisting of experts in economics, law, energy pricing, etc., to serve the Consumer Advisory Committee's technical assistance needs and those of the FEA. No consumer office in the Federal government has had such a significant and substantive mission.

In a spirit of national energy crisis, these commitments were well received. Today, as the price, inflationary, environmental, and social impacts of energy have become so much clearer, the substantive commitments of March 13, 1974, are not being fulfilled.

The facts of our failure are simple and incredible:

1. The Office does not now report to the Administrator. It literally reports to no one except that on paper it is one of several miscellaneous units that report to the Director for Intergovernmental Relations.
2. The Office does not influence FEA decisionmaking. Never once has the Office been asked to assist the Administrator on a matter of substance. Never once has the Administrator responded to dozens of important reports and recommendations submitted directly to him by the Office.

As the Nation enters into many important decisions regarding energy—decisions forced on it by years of governmental and industry neglect, the consumers' stake in energy policy becomes much more important. The potential energy-related problems and costs to consumers in the next decade make the winter 1973–74 shortages pale by comparison. Public opinion, unfortunately, on the other hand, feels the crisis has passed since gasoline lines have disappeared. Government and industry know that the real consumer crises of high cost energy, environmental health risks, safety, and shortages are upon us, yet have hardly reached the collective public consciousness.

FEA's movements to date on important decisions are on a direct collision course with the best interests of consumers. The patern is set, and I do not feel future agency decisions will vary in substance. There are several subject areas of the primary deficiencies.

One major misdirection is the FEA subsidization of industry through the theory of the magic profit. While FEA inherited the $1 barrel increase granted by the Cost of Living Council to producers of old domestic oil that costs U.S. consumers about $2.5 billion per year, FEA has continued to support that decision by default. There has been no FEA analysis of the price levels since the December 19, 1973, announcement. The decision by the Cost of Living Council started a literal 8 month steady rain of protests from Congress and public interest groups, but FEA merely has said conditions now are somehow different. A similar decisio was the March 1 decision to raise consumer gasoline prices by $2 billion annualy through granting a 2¢ retail margin increase. The FEA defense of that decision was to keep profits of dealers up and thus keep service stations open during that period of lower sales volume. FEA has not seriously considered reducing that margin even as volumes increased almost back to normal by spring of this year. The primary instance of the false magic profit theory is seen in the blind belief that huge multi-billion dollar increases in oil company profits in the first half of 1974 will ultimately produce newer and cheaper supplies of energy. If such profits are adequate or excessive. FEA doesn't yet know—FEA has not been able even to assemble, much less analyze, the information necessary to begin answering that question.

These three decisions are not unique manifestations of the unproven theory of the magic profits. The cost for every U. S. family for these three decisions above is going to be several hundred dollars apiece over the next few years. FEA has not subjected any of these manifestations of faith in the theory recently to as much as thoughtful consideration, much less analysis.

A second misdirection is in the area of competition. FEA has a mandate to protect independent sectors of the pertoleum industry under the Emergency Petroleum Allocation Act of 1973. In spite of this, FEA cannot yet even offer adequate measurements of the fate of independents to date under the law. FEA will not be able under such conditions of ignorance to make even perfunctory estimates of what its massive proposals for future spending, regulations, and industry subsidies by government will do to independents. FEA may not be able to intelligently address the basic questions about the current horizontal integration of oil, gas, coal, and uranium producers. FEA does not have the inclination to even seek to measure the effects of multi-national oil companies' integrated operations, the effects of interstate pipeline company monopolies on consumer natural gas heating bills, or the effects of the inefficiencies of utility "natural monopolies" on electric rates.

The third misdirection is to treat consumer energy policy as a welfare problem. FEA's attitude has been that some groups of consumers will complain when energy costs to them are higher than the average for other consumers. Therefore, a handful of New England homes with total electric dependence, a group of migrant families short of gasoline, or some few households cheated by a fuel oil dealer are but subjects for a little relief. Surely these and similar groups with special impact problems deserve attention, but the root cause of many such problems is the very structure and priorities which FEA builds into the system. A great deal of suffering could be prevented if consumer considerations were built directly into the formation of basic price levels, allocation systems, resource development programs and other substantive policy matters.

While the oft-promised intention of FEA has been to deal with the energy-related consumer impact issues that might arise, there has never yet been an instance where any part of FEA's organization has done so. The plights of many groups—volunteers, the elderly, the rural poor, the big city tenants, the owners of modest homes victimized by Reddy Kilowatt, among others—have been ignored by FEA.

Whether the subject has been impacts due to the still secret contingency gas rationing plan or residual oil, heating oil or gasoline allocations, concern has been dutifully expressed to consumers and Congress. Only, there has been no top level commitments by FEA to alleviate the problems, actual or potential. Those tragic oversights can still be corrected.

Another misdirection has been in consumer education. Consumer voluntary conservation efforts are still the mindless "300 Hints from Heloise" variety and are self-serving bureaucratic publicity gimmicks. No new FEA initiative or position has been taken to date in support of mandatory appliance energy efficiency labeling, auto mileage measurement standardization or any of the other related kinds of consumer information programs. Any of these could assist national conservation goals as well as consumer pocketbooks rapidly—and painlessly to industry. Our failure in even continuing the Cost of Living Council's octane posting regulations is a remarkable oversight to say the least.

Consumer and environmental interests are strongly united in their views on virtually all major energy issues. FEA, however, is still failing in its misdirected efforts to drive a wedge between them. The agency relentlessly blames rising consumer energy costs on even the limited measures taken to date to protect the Nation's health through cleaning up our air and water and those laws that protect our limited land and other resources.

FEA's misdirected approach to nuclear energy is absolutely frightening. Our official view is that nuclear power must be developed. Never, however, have we stated firmly any ground rules of safety that should be conditions of that commitment to this high risk fuel. The engineering requirements for certain nuclear facilities must be fail safe—yet, engineers are humans. Waste disposal and transportation of nuclear materials involve unsolved technical issues. The risks today are high according to many scientific auhtorities, yet, FEA only offers an unbalanced plan to push development of uranium resources, to accelerate licensing procedures, and also to spend money on research. America's nuclear development in terms of electric generating facility applications has been allowed by haphazard government planning to reach a point at this time that the public will not be able to reassess the safety, environmental, cost, and energy trade offs without severe economic dislocations. Billions of dollars in economic losses could come with the political reaction to the advent of only one politically unacceptable accident. The nuclear power industry conceivably could be shut down by public demand if any of the risks become realities. Let us hope Murphy's Law does not work in nuclear energy within this next decade of unreliable technology. Let consumers hope that FEA's nuclear safety concerns will be more integral to its thinking than just philosophical meanderings of its articulate speechmakers.

FEA's jaundiced view of energy regulation is appropriate, even if misdirected. Inadequate utility regulation which guarantees cost-plus profits has created a backward industry with instances of inbred and inept managements. Utter contempt for employee's civil rights, consumer impacts and environmental concerns by some firms produces muckrakers classics almost every week in the press. FEA inexplicably pushes today for financial and rate relief to the weak sisters in the industry. It blames the growing sensitivity of some state regulators to the public's rights and interests for the industry's woes. To add insult to consumers, FEA must literally be bludgeoned publicly before it will talk to consumers, environmentalists, and other citizen interests on the utility industry's consumer problems. These groups want to raise the more fundamental problems of an overly protective regulatory system. They want to discuss current problems of certain ineptly managed companies. They want to pose rate recommendations. They are interested in severe problems caused by automatic cost pass-through mechanisms that raise rates up to 40% without even as much as a public hearing. Some of the strong sisters of the industry may yet be weakened if FEA creates some new kinds of welfare for the industry through Federal laws, subsidy and protective regulation.

Your Office of Consumer Affairs has failed to date because it has been unsought and unheard within the agency. On the other hand, it has been able to serve FEA and the public through its major efforts to inform consumer groups, other public interest organizations, and the Consumer Advisory Committee of issues and options that face them. Some of these organizations have been given significant technical assistance by OCA to help them focus on relevant issues. FEA has benefited and will continue to benefit from much higher quality input directly from these groups on several notable occasions. Among the most recent ones are the Denver Project Independence Hearings, unleaded gasoline pricing, and octane posting.

The Office has a highly capable staff that can continue to produce these needed views from the public interests we are pledged by law to serve. These benefits are partly the byproduct of the disorganization of FEA. OCA has been left alone to try to bring the technical orientation of FEA together with the human realities of the consumer world. The Office has begun to succeed with consumers, but has been shunned and downgraded in its efforts to assist within FEA.

The FEA commitment to consumers that had developed steadily from the early creation of a Consumer Advisory Committee and was followed by the FEA Office of Consumer Affairs has deteriorated rapidly. The ultimate litmus test for FEA is its major policy decisions, and it has failed the consumer.

The need for organizational changes within the FEA to deal with the above consumer issues is clear. I don't presume to know the personnel and structural changes you will require. Consumers concerns are with the results FEA produces, not its bureaucratic problems. Repetition of old mistakes will be intolerable, however, and the OCA Staff can be invaluable in evaluating your planning options. In addition, I recommend to you consideration of the management issues faced by many other Federal consumer offices that are raised in my recent article in the *California Management Review*.

Before the issues raised in this memorandum are publicly discussed, I request that we meet to review this memorandum. In the near future, I will make this resignation memorandum public in order to contribute something of some value in increasing consumer discussion of what I feel to be important substantive matters affecting every family in the United States. I do, however, want the personal benefit from your reflections on those consumer issues which you too feel require increased attention from FEA.

It has been my professional privilege to serve with you in an agency with awesome responsibilities to consumers. The impact of FEA's decisions can be enormous as you lead the Federal effort in Project Independence. You are a person with a somewhat similar academic background to mine and your own grasp of the vast range of technological, economic, and political issues that are woven together in energy policy is nothing less than masterful.

Thank you for your attention to this lengthy discourse.

Chairman HUMPHREY. I merely point out that for some reason or other those oil companies have a preponderance of influences in their government. Anybody that stands up to them really has to have his facts and be prepared to go through quite an ordeal.

Now, Mr. Richardson, you go right ahead and tell us why you resigned and what you think is wrong with the FEA. Speak your mind. We want you to just lay it on the line or tell it like it is, as they say.

STATEMENT OF LEE RICHARDSON, FORMER DIRECTOR, OFFICE OF CONSUMER AFFAIRS, FEDERAL ENERGY ADMINISTRATION

Mr. RICHARDSON. Thank you, Senator Humphrey.

My view basically was that having been appointed on March 13 by then energy czar and now Secretary Simon, and quite a bit of publicity, there were many promises made as to what my office would be able to do in terms of its involvement and the decisionmaking in the Federal Energy Administration. My own personal philosophy was that the FEA has as its primary mission the satisfaction of the consumers' need, as any textbook will tell us is the purpose of economics.

So that in resigning and saying how my office failed, I tried to point out those areas in which I thought FEA had not lived up to its potential, and had not done what I thought it should have done in regard to basic consumer questions.

You mentioned the subject of inflation. We have proposals about inflation, and the billions of dollars that could be cut from the Federal budget. Well, just on a couple of items I identified in my resignation, we could save consumers' pocketbooks and wallets more than that $5 billion that some proposed to cut out of the Federal budget as an inflation factor.

Chairman HUMPHREY. Would you repeat that again?

Mr. RICHARDSON. I don't have a prepared statement.

Chairman HUMPHREY. I don't care, that is fine, it is better if you don't, it proves that you have been saying what you want to say. What did you just say about the savings here?

Mr. RICHARDSON. I mentioned that one—you were talking about inflation.

Chairman HUMPHREY. Yes, sir.

Mr. RICHARDSON. There has been a suggestion by some that one of the ways to deal with inflation was to cut the Federal budget by $5 billion. I, in my resignation, have identified in just two instances of FEA policy decisions that $5 billion could be saved for consumers alone, just from changes in some of the decisions that the FEA has made in its discretion.

Chairman HUMPHREY. That is a very serious charge.

Mr. RICHARDSON. I would like to go into some of the details.

Chairman HUMPHREY. I wish you would spell it out a little bit for us. I don't doubt your charge, I am just simply asking for facts to document it.

You are a professor at Louisiana State; is that right?

Mr. RICHARDSON. That is right. It is quite a school, I think you will agree.

Chairman HUMPHREY. I think we are on the same wavelength in Minnesota as far as current years are concerned.

Mr. RICHARDSON. I think we will beat Alabama this year.

One of the major areas that I thought the Federal Energy Administration has misdirection in was in the area of pricing which, of course, also related to the profits, and again it relates to inflation. On December 19 the Cost of Living Council raised the price of old oil, presumably as an incentive to discover new oil, for reasons I cannot understand. But this was the Cost of Living Council decision, which was immediately inherited and became the responsibility of the Federal Energy Administration. Since that time, I know of no analysis whatsoever within the FEA that can substantiate the continuation of this decision under the authority of the FEA.

This alone, this $1 a barrel on old oil, results in an approximately $2.5 billion increase in cost to consumers and all users of petroleum.

We have explained in FEA that the reason we have done it, apparently, that we continued to allow this to occur, this increase to be maintained at $5.25, is that conditions have changed. But I have not been able to determine that we have identified those conditions which substantiate that $5.25.

My view as a consumer advocate would simply be that when in doubt, why not give the consumers a break. I simply don't know that we can substantiate the current price. It may be with good analysis we can substantiate a $7 price, or we couldn't even substantiate a $3 price. I just haven't seen it for any number.

A second area of importance——

Chairman HUMPHREY. Could I ask you, what did you in your role as the Consumer Affairs Director do to get a price analysis that would justify the $5.25?

Mr. RICHARDSON. There were about 6 months of efforts by consumers and others to obtain from FEA the rationale behind the $1 a barrel increase.

Chairman HUMPHREY. When was that put on, so that our record can be made?

Mr. RICHARDSON. December 19, 1973.

Chairman HUMPHREY. That was $1 a barrel on old oil?

Mr. RICHARDSON. Old oil only.

Chairman HUMPHREY. What was the justification for that? What **did you** do to compel the FEA to justify it or prove its point?

Mr. RICHARDSON. My view, which is in a memorandum, was that the FEA should analyze—I did not pretend to have the resources in my small office to be able to do this alone.

Chairman HUMPHREY. You said your small office. How many people in your office?

Mr. RICHARDSON. We had—today we have one less, since I am not there. But the total now would be 13 employees.

Chairman HUMPHREY. To represent all the oil consumers of the United States?

Mr. RICHARDSON. That is correct, in the Office of Consumer Affairs, FEA.

Chairman HUMPHREY. How many were professionals?

Mr. RICHARDSON. We have six professionals. We had two additional semiprofessional college students. We had one other college student functioning as a secretary. And we have four other permanent secretaries.

Chairman HUMPHREY. How many employees does FEA have?

Mr. RICHARDSON. That has been a difficult question for FEA to answer and for anyone to get the information on. The last figure I saw was approximately 3,400.

Chairman HUMPHREY. 3,400. And you had 12?

Mr. RICHARDSON. We had 14 until 4 o'clock Thursday.

Chairman HUMPHREY. Out of 3,400?

Mr. RICHARDSON. Yes.

Chairman HUMPHREY. How many oil executives are in the FEA?

Mr. RICHARDSON. I understand at the request of Congressman Rosenthal—the last figure that we released, as the FEA, was that there were 102 persons with some affiliation, back in the late winter or early spring, some past affiliation with the oil and gas industries, of whom 69 were identified as persons in some professional role, management analysis, policymaking, and so forth.

Chairman HUMPHREY. You had six professionals to represent the American consumers?

Mr. RICHARDSON. That is correct, plus myself.

Chairman HUMPHREY. Plus yourself.

By the way, speaking of your own professional competenance, what is your discipline at the university?

Mr. RICHARDSON. I am a marketing professor. That is my doctorate. I have also taught finance and management.

Chairman HUMPHREY. At Louisiana State University?

Mr. RICHARDSON. And Southern University.

Chairman HUMPHREY. Where did you get your Ph. D.?

Mr. RICHARDSON. I have a doctor of business administration degree from the University of Colorado in Boulder.

Chairman HUMPHREY. So you have what you would call a professional background in the area of marketing and business finance?

Mr. RICHARDSON. I would like to say that, yes. I was a professor for 6 years at Louisiana State, and 4 years part time at Southern.

Chairman HUMPHREY. I thank you for this information. I want the record to be clear that there are 3,400 employees in the Federal Energy Administration, of which 14 were employees in the Consumer Affairs Division, and in the Consumer Affairs Division there were 7 at the time that you were its Director with what you will call professional credentials.

Mr. RICHARDSON. Yes.

Chairman HUMPHREY. This is why we have got a consumer bill now on the Senate floor.

Mr. RICHARDSON. I have been thinking about that in the light of this past week's experiences.

Chairman HUMPHREY. Something to protect the consumer, look out for his interest.

Go ahead. I was asking you about the argument that you had or the proposals that you made with reference to the dollar a barrel increase on old oil on December 19, 1973.

Mr. RICHARDSON. Sometime finally, in May or June, I do not have a precise date, this information—the Cost of Living Council's analysis was finally released under pressure from proceedings under the Freedom of Information Act. My conclusion—and it is a voluminous pile of materials—my own opinion was that it did not justify the increase at that time. So because of that, I wrote a memorandum to the General Counsel who had been the General Counsel of the Cost of Living Counsel at one point, Mr. William Walker, and to our Assistant Administrator for Policy Analysis.

Chairman HUMPHREY. What is the Assistant Administrator for Policy Analysis' name?

Mr. RICHARDSON. On June 21st—his name is Eric Zausner.

Chairman HUMPHREY. What is his background.

Mr. RICHARDSON. All I know is that he came from the Department of Interior. I do not know his private background.

But I wrote a memorandum at that point saying that we should certainly not in our proposed deallocation strategy paper take a position that appeared to me to be similar to the same position taken by the Cost of Living Council. I have also sent another memorandum in the past saying that we should have an analysis of energy price increases, that simply the Cost of Living Council's current analysis in the past was inadequate.

Chairman HUMPHREY. Why did you think it was inadequate, Mr. Richardson?

Mr. RICHARDSON. After reading through all the papers, none of them really came to a firm conclusion saying that we ought to have a price of $5.25, or anything higher, other than some opinions thrown around that were the report of the committee meetings, where Mr. Stein, for example, proposed a price in excess of $10.

Chairman HUMPHREY. What was that?

Mr. RICHARDSON. Mr. Herbert Stein proposed an increase in excess of, I don't remember whether it was $10 or $12.

Chairman HUMPHREY. For old oil?

Mr. RICHARDSON. Yes. This is in the materials that were made available to Senator Jackson by Ralph Nader.

Chairman HUMPHREY. No wonder the President's Council on Economic Advisers has been off target on inflation rates.

Mr. RICHARDSON. So I did want to point out that there have been some who apparently did feel that a higher price than $5.25 was necessary, but I just personally arrived at the conclusion that there was no basis for that. And, therefore, the press release and the rationale by the Cost of Living Council saying why they raised it just simply wasn't supported by their own internal analysis. And, of course, it took about 6 months for Mr. Nader and Mr. Lee White under FEA proceedings to get this release in the first place. That is understandable.

Chairman HUMPHREY. That is in the Freedom of Information Act?

Mr. RICHARDSON. The Freedom of Information Act.

Chairman HUMPHREY. I want the record to be clear, because we intend to pursue these matters more than just 1 day. The record from your testimony is that the Cost of Living Council did not voluntarily release this information in a timely way, but it took action on a complaint from Mr. Nader and Mr. White acting under the constraints and the sanctions of the Freedom of Information Act to get that information from the Cost of Living Council: is that correct?

Mr. RICHARDSON. That is correct. I was unable to obtain it until the persons on the outside finally delivered a copy to me.

Chairman HUMPHREY. You as a Federal officer were unable to obtain a copy?

Mr. RICHARDSON. I had never seen a copy of that material.

Chairman HUMPHREY. Let's get it clear again. You, as a Federal officer, the Director of a Federal agency's office, are you telling me as the chairman of this subcommittee that you weren't able to get the information from the Cost of Living Council in an official manner, that you had to get it surreptitiously?

Mr. RICHARDSON. Not surreptitiously, because this was simply at the point they were released by the FEA.

Chairman HUMPHREY. Did you get it from an officer of the Cost of Living Council?

Mr. RICHARDSON. No; I never received it from that source.

Chairman HUMPHREY. Where did you get it?

Mr. RICHARDSON. I received it from a person who said it came from Ralph Nader.

Chairman HUMPHREY. It came from Nader's office?

Mr. RICHARDSON. Yes.

Chairman HUMPHREY. So that you, as a Federal officer charged with an agency concerned with protection to consumer interests and the Federal Energy Administration had to get your information from the Cost of Living Council through a third party; namely, through Ralph Nader's office?

Mr. RICHARDSON. Yes. But this was after he had been successful in his FEA proceeding; that is correct.

Chairman HUMPHREY. But you did not get the material from the Cost of Living Council directly?

Mr. RICHARDSON. That is correct. We had made inquiries in behalf of the outside consumer groups trying to encourage this release. And we had done this over a period of some time. The discussion of the dollar a barrel increase was probably the No. 1 topic in several of the meetings of the Consumer Advisory Committee that was appointed back in December to advise the Administrator on all consumer matters. It had been their number one topic. It was not to be released until——

Chairman HUMPHREY. How often does that Consumer Advisory Committee meet?

Mr. RICHARDSON. Slightly less than once a month. They have met in December, January, March, April, May, and June.

Chairman HUMPHREY. One time each month?

Mr. RICHARDSON. Yes, 1-day meetings. The first two, I believe, were just 2-hour meetings.

It should be pointed out, however, at this time that no such advisory committee exists.

Under the FEA act under which this committee was appointed, certain conditions were written in to provide for well balanced advisory committees. So the conditions of the act had to be met. As of this point, no new consumer advisory committee has been appointed. So therefore, none exists.

Chairman HUMPHREY. Mr. Richardson, you have now told us about the staff you had and your role as Director of Consumer Affairs, the number of people working for you, and the number of professionals. Would you briefly describe how you procedurally tried to raise consumer issues in FEA, and how you were in your mind, according to what you have said, systematically ignored?

Mr. RICHARDSON. I have here a number of memorandums that relate to various issues. Perhaps by nature I am not an aggressive enough individual and just resigned because there was something that I felt was substantive that there was no response to it. I could, if you would like, go through some of the memorandums identifying the kinds of statements I had made both to the Administrator in writing and to other high officials of the agency.

Chairman HUMPHREY. We would like to have copies of those memorandums for the record.[1] The staff will work with you to get that.

Mr. RICHARDSON. All right.

Chairman HUMPHREY. If you would like to give us some examples, let's take the time to do it.

Mr. RICHARDSON. I have a memorandum here to Mr. Duke Ligon where I advised that it would be wise to release the gasoline rationing contingency plan. I worked 2½ months in the office helping to prepare that before I became the Consumer Officer for FEA. I have worked in gasoline rationing planning. Such a plan is now on file. There is a staff that works just with that file on the theory that the file may someday, heaven help us, but someday it might possibly be needed again. However, I requested that this be made public so that experts and consumers and others could see whether it was provided for to handle the many kinds of problems involved in a gasoline rationing system. I received a phone call 1 month after my May 1 memorandum indicating simply that it was not necessary or desirable at this time to let consumers or anybody else into these files.

Chairman HUMPHREY. So what you were trying to do in that instance was to make public the contingency plans for gasoline rationing in order to bring about a dialog or discussion of those plans among the interested parties and groups to seek their refinement and their understanding; is that correct?

Mr. RICHARDSON. Yes, sir.

Chairman HUMPHREY. Some of us, by the way, in this committee, suggested that without knowing that you had likewise suggested it.

Mr. RICHARDSON. I had basically written that section pertaining to the so-called "white market." And I have quite a professional interest,

[1] See memorandums from Mr. Richardson, beginning on p. 20.

a marketing interest, in the plan, as well as in the equities of the plan, and who gets the coupons.

I wrote a memorandum to the legislative counsel, Mr. Tom Nelson, following a discussion with Mr. Sawhill, where he said to me that we should move ahead in the area of energy labeling of appliances. I outlined what my own young lawyer professional on my staff had determined would be FEA's position on the various bills at that point, and suggested that we show new initiatives, at the request of Mr. Sawhill.

I received no response, and I am aware of no particular initiatives that we have taken since June 4.

I have here a memorandum suggesting as of June 5 some options on dealing with the problem of consumer input through both the Special Impact Act office which was created on January 25 and my own office. There is considerable overlap in those two offices in my opinion. And I sent out that to management officials and recommended that the Special Impact and Consumer offices be more closely alined because of the efficiencies that that would produce. We were two extremely small offices, and therefore, weak as a result, and I thought there would be management efficiencies involved.

Since then there has been an announcement of a reorganization in the last few days along those same lines.

On June 11 I sent a memorandum to Mr. Len Puliot, who at that time appeared to be the key person for this type of problem, that is, involving the Office of Consumer Affairs and the development of the legislative positions and initiatives, and also for reiewing such legislation. Since that time I have not been involved in any legislative positions or initiatives. That was June 11.

Chairman HUMPHREY. Let me ask, with reference to that particular memorandum, were you generally consulted on legislative affairs, the scrapping, for example, of energy legislation, or responding to congressional concern about the adequacies of consumer representation in FEA?

Mr. RICHARDSON. On the drafting of energy legislation, I cannot recall at this point one instance of that type where we had been consulted or asked to review it. This is not true on regulations, we did get ourselves involved in some of the regulations.

Chairman HUMPHREY. Who did you directly report to at the FEA? What was your contact, for example, with Mr. Sawhill on the substantive issues? I understand that you had daily meetings with Mr. Sawhill, or that there were daily staff meetings with Mr. Sawhill, and at those meetings you raised the substantive issues that you were addressing yourself to.

Mr. RICHARDSON. That is correct. I went to the morning staff meetings where approximately 20 persons would assemble each morning for a period of about 15 to 30 minutes. The main purpose of those meetings, as I saw them, was simply to exchange bits of information on administrative matters and who is handling what. There simply was not a forum for the kind of indepth discussion of issues that I have been most concerned with. This was an administrative clearinghouse which started the day.

Chairman HUMPHREY. Did you have an opportunity to sit down with Mr. Sawhill, for example, on the matters raised in your memorandum and say, let's talk these things out, these are matters that concern me as Director of the Consumer Affairs Office, I would like to get some guidance on this, or what are we going to do about these matters? Did that sort of give-and-take take place?

Mr. RICHARDSON. No. I would say, perhaps, it is my responsibility that I did not make a firm request early enough for this kind of meeting. Mr. Sawhill was extremely concerned about the use of his time. He does not have a deputy. And he had so many people reporting to him. I viewed it as probably more efficient for him primarily to take to the pen, to send in substantive matters, and he would then decide who to refer these to, such as the management memorandums. I really didn't expect him to work through them all and look at all my options and details of my recommendations. There was someone else that you might wish to consult with. He has a group of special assistants, and has a closely knitted administrator team who can do that sort of thing for him.

So I primarily felt my role was not really reporting through him, or to him, but to take the pen and write memorandums on these technical matters.

Chairman HUMPHREY. Do you feel that these deputies and these subordinate administrative officers gave any attention or gave due attention to your memorandums?

Mr. RICHARDSON. In the cases that I have been going through, there has been no attention to them.

Chairman HUMPHREY. None?

Mr. RICHARDSON. No, none of any consequence on the substance.

I have one here, for example, where I wrote a caustic comment about a letter that was written to 25 Congressmen about my office. I said, this is the sort of thing that I just think is highly inappropriate in the nature of that letter. And I protested. So the response I got was one special assistant who mentioned to me at one of those staff meetings to go and then see the person that actually drafted that letter. The point was lost. It was the kind of statement we made that was at issue. And there was no real discussion on that.

Chairman HUMPHREY. Did you address yourself in these memorandums to the economic issues, for example, like price increases or profit increases or what you projected to be profit increases?

Mr. RICHARDSON. Yes.

Chairman HUMPHREY. Or was it mainly administrative details that you were addressing yourself to?

Mr. RICHARDSON. Some of these early ones were administrative details. I will skip some to move to that type.

Here is one to Mr. Sawhill on a very serious question, I thought for consumers; that is, what are the market structure problems related to various energy industries. That was on August 5.

Chairman HUMPHREY. What year?

Mr. RICHARDSON. This year. The memorandum in this case is very recent, so response perhaps is not to be expected within a few days on something of this much substance.

But I felt that one of the great omissions in the Presidential and congressional imperative given to FEA to develop a project independent of the blueprint, was simply the fact that I could not identify anywhere a competitive analysis, or a synopsis of what our recommendations for Project Independence might impact on different energy industries. For example, the role of the independents has been historically a very important one in the marketplace in the oil industry. And I could not identify that we were taking a look at these kinds of issues in our Project Independence blueprint. So I related my views on whether we should ask the Federal Trade Commission to do this, or whether the FEA should do it, and try to offer whatever guidance they could in dealing with what I thought was imperative, analysis of market structure. I have had no response. I see no move yet at this point by FEA.

I understand the Federal Trade Commission has publicly indicated that it did not see that it should be part of the blueprint production. So it is apparently up to the FEA to make the moves in analyzing competition: The interrelationships of the energy companies, not only in terms of vertical integration, but horizontal integration as to different energy industries. The relationship between uranium production and coal production and oil is quite well documented. And I don't see that we are paying attention to what could be the very serious effects of our blueprint recommendations on market structures.

Chairman HUMPHREY. Did you show in any of your conversations or memorandums any concern over what was happening to the independent oil dealer and the independent oil refinery?

Mr. RICHARDSON. This could have said to have relationship to that. I have not taken a personal position vis-a-vis whether the independents are good buys or anything of a general nature or position on the subject of independents. And I simply limited my analysis to this specific case. Offhand I do not recall other memorandums on the subject of independent marketers.

Chairman HUMPHREY. Do you have any material or memos on profits and prices?

Mr. RICHARDSON. Yes.

Also dated the same day as this previous one, August 5, I have a memorandum relating to what I think is the key philosophical element of FEA strategy vis-a-vis the oil companies. And that is to summarize what I feel is the strategy we need as FEA to raise profits to a point that ultimately will produce the investments which in turn will produce the kind of supplies that are necessary to satisfy demands of this economy.

Chairman HUMPHREY. I have a question that I was going to propound to you later, but it comes in line with your reply now. You stated in your letter of resignation:

> The primary instance of the false magic profit theory is seen in the blind belief that huge multibillion dollar increases in the oil company profits in the first half of 1974 will ultimately produce newer and cheaper supplies of energy. If such profits are adequate or excessive, FEA doesn't yet know—FEA has not been able even to assemble, much less analyze, the information necessary to begin answering the question.

You assert in your letter of resignation that you felt that it was within FEA's upper hierarchy a blind belief that higher industry oil profits would solve the worst of our energy problems; is that a fair statement of your attitude?

Mr. RICHARDSON. Yes. This memorandum pertained particularly to that part of my resignation. In this I was referring to a memorandum sent by the FEA to Mr. Kenneth Rush immediately following some of the early reports by oil companies of their second quarter profits picture. I made some observations on that memorandum that I feel substantiate my charge in the letter of resignation.

I list here a number of points that are technical in nature as to why that memorandum was inadequate and why our analysis is inadequate. I would be glad to go through some of these points very briefly as to why they were inadequate.

Chairman HUMPHREY. In the meantime, Senator Metzenbaum, why don't you come up?

Senator METZENBAUM. I am very much interested, and commend the chairman on conducting these hearings.

Chairman HUMPHREY. You had such an excellent paper in the caucus, I think it would be fitting for you to come up.

Proceed, Mr. Richardson.

Mr. RICHARDSON. In my analysis of that paper I say it is not defensible to simply use results obtained from five large companies alone to represent the performance of an entire industry which includes large and small companies.

Our FEA memo provided some apologies for not getting the data without explaining why we were unable to get it.

It seems to me that again the data is obviously basic to any kind of analysis. We did admit that we couldn't get data to analyze the profits adequately.

The limited data I thought were further ruined in the analysis by the failure to break down the information and to use an appropriate ratio analysis.

What is a very key flaw in our analysis of profits all along has been the failure to look at the question of total cash flows. We have only been looking at profits and relating them to the question of investments by these companies. As any of my students would have been able to say, investments are made out of the total cash flow and not profits. So we have seen in our analysis at times at FEA that there is a ratio above 1.0 of investment to profits, but for some incredible reason we don't look at the total cash flow situation.

Another part of this memo is that the memorandum was kind of technically incompetent, in that it used the words profits, operating income, and income interchangeably.

Another point here is that——

Chairman HUMPHREY. In the FEA memorandum you are talking about?

Mr. RICHARDSON. That is right.

Chairman HUMPHREY. The one that Mr. Rush——

Mr. RICHARDSON. Received from FEA, from the administrator, FEA.

Chairman HUMPHREY. Mr. Rush is the economic counselor to the White House?

Mr. RICHARDSON. Yes.

Another point I made was simply that we didn't seem to have any analysis that explained the efforts by Mobil Oil to buy Marcor, and this was such a prominent anomaly in the whole situation, this sudden return to major acquisition by the oil company, that our analysis just simply ignored that factor, and I think it should have tried to explain away, at least from the FEA point of view, or at least explain from the public point of view, why such tremendous investments in non-energy industries would be possible by one of the major oil companies.

I think I presented an analysis that I was able to obtain of the major acquisitions by 11 oil companies since the year 1964. This was new information not provided for or not part of our own memorandum to Mr. Rush. It shows a number of major acquisitions by year. And the trend has been fortunate in that it has been quite downward since the middle 1960's, when these companies were quite active, for example, in buying up coal companies. So in the last several years the number of acquisitions has declined.

Chairman HUMPHREY. But the oil companies do own a substantial number of coal companies, do they not?

Mr. RICHARDSON. Yes. These were primarily purchased in the mid-1960's.

Now 1974, of course, there are negotiations underway by several companies such as Mobil looking at acquisitions. They suddenly have enough money to look at these kinds of investment possibilities again.

So I presented this as additional information in this particular analysis of profits.

Chairman HUMPHREY. Senator Metzenbaum just indicated to me that it is his understanding that 20 percent of the coal companies of the Nation are owned by the oil companies.

Mr. RICHARDSON. There was, I believe, a House committee or Senate committee report in 1972 that showed about 21-percent ownership at that point, 20 or 21.

Chairman HUMPHREY. That is quite a lot of the energy resources.

Mr. RICHARDSON. I am not sure if that is reserves, or current production, or what the measure was, or assets of the company. But I am sure all those figures will be reasonably approximated to 20 percent.

Uranium of course is quite a different story, where the figures range from 45 to 50 percent, depending on how you look at the reserves or production of the owned companies in uranium production.

Chairman HUMPHREY. In getting consumer groups a hearing in FEA or involved in the conferences, did you ever have any difficulty on that?

Mr. RICHARDSON. Fortunately we had provided an FEO Consumer Advisory Committee. So we did have that perform with some regularity, and no particular problems in scheduling the meetings. I would commend FEO, and I would hope that FEA would continue that under the new law.

I might turn that around a little bit and say that when certain persons met with Mr. Sawhill, who were prominent in the consumer field, I was often not made aware of the meetings, and never was invited to those meetings when they were scheduled on his initiative. So it was more our problem than the outside consumer's groups getting in.

Chairman HUMPHREY. Mr. Richardson, Mr. Sawhill is here. As you have indicated, he is a very busy man, and has been most cooperative with the Joint Economic Committee in appearing at our request at anytime. I think it is important that we bring him up to testify, because he has another engagement which he explained to me. I said I thought we could get him in and out in about 45 minutes. So I am going to ask you just now, would you just sort of wrap up what you think has to be done to strengthen the role of the Office of Consumer Affairs, for the successor, your successor in this Federal Energy Administration, and what major consumer issues you think are pending in the Administration awaiting decision?

Mr. RICHARDSON. Well, I think that in strengthening the agency in terms of the formalized role of the consumer input, of course the Consumer Advisory Committee needs to be immediately reappointed and brought in. I think it would be useful to look at some of the problems that occurred in the last week or two, about which that committee should ask questions.

I think there has been—and it should be stated that it is a significant development—that a reorganization of the Special Impact and the Consumer Affairs Office has occurred. I hope that consumer groups and everyone else who has an interest in the consumer field will support the people that have been given the charge under this new reorganization to do so.

The main issue ahead of us, as I see it, in the long run is the development of the Project Independence. First, we have the blueprint due November 1. There will be some serious deficiencies in that report, of course, simply because of the time constraints. But whether we put it all in the November 1 report or not is not really all that important. To me, the question is that we have to take a look at all of the recommendations we make about energy resource development from the point of view of the human impact, from the point of view of the market structure impact, from the point of view of the environmental impact. It is extremely dangerous that an agency might find itself feeling its role was to be the promoter of energy, and fail to look at the human consequences, environmental consequences, of such recommendations.

So I would hope that people would pay most attention to FEA's role in the development of Project Independence.

Chairman HUMPHREY. What are you going to do now, Mr. Richardson?

Mr. RICHARDSON. I must say that I am thankful to LSU for giving me a promotion to full professor in April. In about 2 weeks I will be on campus again among the students.

Chairman HUMPHREY. Did you use your letter of resignation as a way to express to the Nation and the consumers your concern over the lack of attention to their problems?

Mr. RICHARDSON. Yes. Because of the fact that so much publicity has been made over the creation of the Office and my appointment, I felt that if I were to announce my resignation that I should address the question of the success or failure of my office, and particularly what the FEA had done for the consumer. So I merely use that as an occasion to bring these things forth. I thought it was my responsibility to the Consumer Advisory Committee, to which I provided technical assistance and the general public, who had received these promises from Secretary Simon, who was at that time the Administrator.

Chairman HUMPHREY. If you were to be put under an investigation by the Permanent Subcommittee on Investigations of the Senate of the United States and asked this question, how would you respond? My question is: Do you think the Federal Energy Administration was justified, and the Cost of Living Council justified, in imposing the additional dollar a barrel on old oil?

Mr. RICHARDSON. Absolutely not justified at all. But the main point is, can we justify it today? That is the issue I would like to really raise. The old decision was certainly not justified, in my opinion.

Chairman HUMPHREY. Thank you very much.

[The memorandums referred to in Mr. Richardson's testimony follow:]

AUGUST 6, 1974.

Two Scheduled Conferences of FEA That May Ignore Requirements of FEA Act of 1974 and Create Public Concerns.

Lee Richardson, Director, Office of Consumer Affairs.

Robert Montgomery, Acting General Counsel.

This memorandum raises a possible legal question and recommends changing the scope of two announced FEA conferences.

The two conferences in question are "Methods for Evaluating Policy Impact on the Refining Industry," to be held on September 4 and 5, and a conference on August 13, 1974 of state agencies that regulate the utilities to call to the attention of the state regulators the need of utilities for "immediate and adequate relief."

In each case we have announced these conferences to be limited in scope as follows:

REFINING

The words of the press release announcing the refining conference are: "(g)overnment, industry and private consultants will participate in the conference and will discuss the state-of-the-art in modeling studies of the refining industry."

It should be noted that this conference is jointly sponsored with a major lobby group.

UTILITIES

The New York Times, July 30, states that the invites to the utility conference are limited to officials of the Federal Power Commission and of state utility regulatory commissions. The AEC's William Daub has already called for a broader scope conference with consumer representation.

These conferences may fall within the provisions of Section 17(a), Advisory Committees, of the Federal Energy Administration Act of 1974, for the following reasons:

(a) Those attending the meetings, which have been called by the Administrator, will consist of representatives from industry and state government, and private consultants, in addition to full-time Federal Government employees.

(b) The groups will be used to advise with respect to, and to help provide information for use in studies affecting, the refining and utilities industries.

Section 17(a) states that "(w)henever the Administrator shall establish any board, task force, commission, committee, or similar group, not composed entirely of full-time Government employees, to advise with respect to, or to formulate or carry out, any agreement or plan of action affecting any industry or segment thereof, the Administrator shall endeavor to insure that each such group is reasonably representative of the various points of view and functions of the industry *and users* affected, *including those of residential, commercial, and industrial consumers. . .*" (emphasis added).

Our view is not really limited to strict interpretation of legal requirements. Of much greater significance are the intent of Congress, the expectations of the public, and the expectations of public interest groups with which this office maintains liaison. In both conferences, certain environmental and consumer groups can make significant contributions. There are certainly many industry, commercial, state and local government, and other groups with major concerns in these conferences as well.

As the dates of these conferences approach, the quiet inquiries from public groups already received by this office concerning the unrepresentative nature of the conferences may explode publicly.

AUGUST 5, 1974.

Project Independence Blueprint—Lack of Market Structure Inputs and FEA's Responsibilities.

Lee Richardson, Director, Office of Consumer Affairs.

John C. Sawhill, Administrator.

BACKGROUND

The most notable omission in the analyses related to the Project Independence Blueprint is the failure to consider the market and industry structure implications of policy options.

In response to inquiries to you as well as to other staff in Policy Analysis, FEA has been quite vague in its intentions in this area. The problems we have related to our data deficiencies on market share are constantly resurrected by the Congress, GAO and consumer interest groups. We have, on the other hand, a great assemblage of experience and expertise in analyzing the effects on oil industry market structure arising from allocation regulations. More importantly, FEA's central role in energy policy, particularly Project Independence, demands our leadership in covering this vital area of public policy.

FEDERAL TRADE COMMISSION

FEA has begun discussions of Project Independence market structure problems with FTC on the staff level. In the July meeting of the Project Independence Advisory Committee, you stated that a top level meeting with Lew Engman, FTC Chairman, would also be arranged. That meeting is occurring finally today and another month of planning time has fallen through.

The FTC can hardly be expected to join with FEA in a project of such magnitude as analyzing all the market structure implications of all of the PIB policy options and recommendations before November 1. Their professionalism would likely cause them to avoid lending their independent regulatory agency name to a policy document over which they had little final control. Also, FTC has to be concerned with its overall statutory assignment in evaluating related market questions in the energy field—particularly its major study with FEA due next summer. Finally, FTC and the Administration appear to have quite different (and publicly debated in 1973) ideas concerning the economic efficiency and desirability of the major oil companies' integrated operations.

The hope for FTC involvement in PIB is not a viable one. It is up to FEA or possibly an FEA coordinated interagency effort with Justice, etc.

FEA'S ROLE

FEA apparently does not have the capability to produce minimal data, much less in-depth analyses, on many market structure questions. This, however, is not an adequate stance in the case of Project Independence. We are obligated to consider all of the relevant factors in making any recommendations or even in providing options for Presidential consideration.

The level of analysis required in dealing with the questions of competition prior to November 1 will be less than ideal. While FEA analysts may feel uncomfortable in evaluating anything that does not have the sanctity of a computer run, this level of effort isn't necessary. Frankly, mathematical modeling of industry competition behavior isn't likely to produce much of value even with liberal time constraints—behavioral models in this area are generally undeveloped. Other nonmathematical analyses can be obtained, however, but they would need to be cranked up immediately if studies are to be made at all.

RECOMMENDATION

FEA should assign a high priority in its planning process to assure adequate analyses of market structure and competition as they relate to the Project Independence Blueprint. While any analyses in so short a period will be less than ideal, there exist other options such as contracts, an interagency committee, advisory committees, internal personnel reassignments, and hiring of experts and consultants. This office will be pleased to assist in planning this effort because of the major implications of competition policy for consumers.

AUGUST 5, 1974.

Second Quarter Oil Company Profits Memorandum to Mr. Kenneth Rush.
Lee Richardson, Director, Office of Consumer Affairs.
John Sawhill, Administrator.

The following detailed observations on the memorandum may be useful to you as Congressional testimony is prepared for later this month (August 13) in further explanation of the significance of 2nd quarter returns.

1. It is not defensible to state that five leading companies alone represent the large industry without proof of same. What information is presented in the memorandum indicates these are only five of the very largest companies which tends to negate the representativeness of this small sample.

2. Reasons for failing to obtain data should be offered. The oil companies who failed to respond possibly should be identified to the Congress and consumers. Oil companies' public relations blunders in failing to provide basic profits data to FEA or anyone else should not be allowed to hurt the credibility of FEA. If FEA cannot obtain the data for Congress, regardless of the reasons given for the failure, FEA will suffer as the agency that could not deliver the needed information as Congress requested.

3. The limited data are further limited by the choice of some unusual ratios and the failure to provide breakdowns of the elements of those ratios. The use of per cent increases alone instead of tabular presentations of dollar amounts unexplicably allows no additional analyses beyond this memorandum of the first half and quarterly results. In the current form, the presentation of non-standard ratios without the basic aggregated data which were obviously necessary to the calculations at best is contorted.

4. Investments and profits by the smaller producers and marketers are conspicuous in their absence. FEA should be able to tell Congress that the agency is doing its best to preserve the independent sectors of the industry; therefore, FEA at least ought to be able to offer some fundamental data on the profits and/or investments by these important sectors in comparison to the majors.

5. The memorandum presents no indication of cash flows in relation to investment. This industry has very significant cash generation through depreciation and failure to consider the total cash flow only misleads attempts to evaluate investment levels. If the ratio of investment to cash flow is less than 1.0, the *prima facie* conclusion will be that the level of current profit is excessive. Reasonable observers would support that contention until other factors in a subsequent analysis could demonstrate otherwise.

A case can be made for maintaining a ratio in excess of 1.0 at least in the intermediate term. It may be possible to demonstrate that the industry has been too conservative in its utilization of the capital markets, particularly debt, and should therefore be financing some portion of its investments with long term securities. In any event, FEA analysis should deal with this question.

6. The memorandum does not define profits. The interchangeable use of profit, operating income, and income is not only unprofessional, but it is inaccurate. A minimum acquaintance of Congressional staff with financial analysis or accounting will prove embarrassing to FEA. One wonders whether the data provided by the five companies are even comparable or whether they are apples and oranges aggregated.

7. One ignored factor tends to support (or at least it does not contradict) the plausible contention that the oil companies do not have such excessive cash flows that they cannot spend them. The Marcor proposal by Mobil is an anomaly for oil companies as data made available to us shows. Oil company acquisition activity (as shown below) in the last several years has declined somewhat as the following summary of our data for eleven companies show a clear downward trend:

Eleven oil companies' major acquisitions by year since 1964

Year	*Number of major acquisitions*
1964	4
1965	1
1966	7
1967	3
1968	3
1969	1
1970	3
1971	1
1972	0
1973	0
1974	[1] 1

[1] Incomplete—Negotiations underway by several of the large companies may result in other 1974 acquisitions.

NOTE.—Many of the acquisitions of the 1960's were in coal and almost all were energy related (horizontally or vertically). The Mobil-Marcor case is highly unusual in this perspective and could represent a major upward turn.

A summary of the above is unnecessary; however, this Office does have a responsibiliyt to you to see that the public is accurately informed. Industry profit has been one of the key elements in consumer frustration with the Administration's announced theory that increased profits increase supplies. Supplies, ultimately at least, can be best increased through intelligent investments of current profits.

The bottom line of any financial analysis FEA conducts on the subject of profits must be to show progress toward the goals will be to increase supplies of domestic petroleum at reasonable cost to current and future consumers. The second quarter profits memorandum did not succeed in this regard.

JULY 30, 1974.

Letter of July 18, 1974 to Hon. John F. Seiberling.
Lee Richardson, Director, Office of Consumer Affairs.
John Sawhill, Administrator.

The attached letter is a copy of one sent to a number of Congressmen. It is the ultimate in the kind of poor Congressional relations about which you expressed concerns at the Thursday staff meeting.

The first problem is handling the outgoing letter(s) was that the matter did not come to our attention. The original letter(s) from the Hill which caused this response was not referred to us for coordination, reply, or even information.

The content of the letter creates impressions that only reinforce Congressional concern about the FEA approach to consumer affairs. No positive statements were made concerning any FEA substantive Special Impact or consumer office programs; no reference was made even to the work of the Public Affairs Office.

Such trite, overly cute, chatty language in a brief non-substantive response to a large cross-sectional group of Congressmen should be avoided. If our official position is that "I have not been satisfied with our record in this area, I am taking steps to strengthen our effort", this letter has provided members of Congress neither with the record nor the steps.

I ask again that internal referral of priority executive correspondence relating to Consumer Affairs be referred to this office.

Attachment.

JULY 11, 1974.

Consumer Questions on Natural Gas Deregulation for Consumer Q & A's.
Lee Richardson, Director, Office of Consumer Affairs.
Pat Starratte, Executive Assistant to the Assistant Administrator for Resource Development.

The following are questions likely to be encountered in a "consumer offensive" on natural gas deregulation.

I. How will monthly residential gas bills be affected in the future?

(*a*) When (in years into the future).

(*b*) Dollar amounts ("typical gas bill").

(*c*) Indicate varying consumer costs as demand, price, supply, geographical location, customer size, rate flattening, etc. vary. Include the "worst case gas bill" too.

II. Explain various schemes of phased deregulation and their impacts on residential utility and industrial gas bills over time.

III. Contrast phased deregulation with gradually raising ceilings as alternative strategies.

IV. Cite other industries as evidence of workings of the theory that short term price increases induce supply increases and in turn eventually cause price reductions.

V. Can old and new gas be treated separately in a deregulation scheme? Should they?

VI. How can any future price be best predicted (within ± 25%) at dates beyond 5 years from the point of deregulation?

VII. How are company decisions made to invest in gas exploration? Does any particular legislation provide precise inducements required to increase investments?

VIII. Will price deregulation produce windfall profits at any stage?

IX. What tax or other device will assure a skeptical public that profits beyond some "reasonable" standard will be eliminated or channeled into exploration?

X. Is freedom of entry into the gas production industry a realistic assumption? If true, this would counter charges of overconcentrated future production. What incentives can be built in to encourage more competition?

XI. Do the following measures show abnormal concentration? Now? In future exploration and production?

(*a*) Market shares of 4 largest companies.

(*b*) Are markets national, regional or local in reality? What are concentration ratios in each relevant market?

(*c*) Are producers and pipelines overly integrated? Will they become more so?

(*d*) Do pipelines exert influences that limit or aid competition at the producer level?

XII. Given the qualities of natural gas as an energy source, is its long run equilibrium price due to be equal to, higher than or lower than oil (cost per million BTU's)? What is that price in ¢ MCF given a $7.50 oil price?

XIV. Is the Administration "promise" of deregulation currently depressing exploration activity?

XV. Does the conspicuous decline in exploration activity reflect only abnormally low well head price ceilings? What are the relative roles of U.S. tax policy vs. domestic and foreign activity, unusual coincident foreign discoveries, or other factors?

XVI. What legislation, if any, is needed to smooth the impact of increasing well-head prices on residential consumers?

JULY 9, 1974.

Agenda for Possible Followup Meeting Regarding Role of Office of Consumer Affairs.

Lee Richardson, Director, Office of Consumer Affairs.

John C. Sawhill, Administrator.

In our meeting of June 19 to prepare for the Consumer Advisory Committee meeting and to review management issues related to this Office, you suggested a possible second later meeting with you on any unresolved management problems. Len Pouliot would be consulted by me in the interim.

One current problem requires immediate resolution.

You suggested one tentative solution to the organizational reporting problem of OCA at a June 28 staff meeting. This would be to report through the Assistant Administrator for Intergovernmental Relations instead of through the (nonexistent) director of Private Redress and Grievances.

Members of the Consumer Advisory Committee expressed concern on May 21 about the PRG arrangement because it threatened the direct reporting of OCA to you. You cited this fact at the June 28 staff meeting. They were satisfied by your explanation on May 21 that this reporting arrangement through a nonexistent director of PRG means direct access, *de facto* even if not *de jure*. Thus their primary concern was with consumer access to you.

The suggested placement of OCA under Intergovernmental Relations is exactly the wrong solution to the problem as you posed it on June 28.

As the exceptions and appeals section of PRG reports through Operations and no conflict with OCA would occur or has occurred, I recommend against the tentative suggestion for a change from the widely announced organization plan.

As the issues related to the size and function of this Office and the relationship of OCA to Special Impact continue toward resolve, the more desirable organizational location for OCA will become more evident.

A brief meeting should be scheduled should you want to officially change the announced organizational plan relating OCA to PRG.

JUNE 21, 1974.

Economic Analysis of Energy Prices.

Lee Richardson, Director, Office of Consumer Affairs.

Eric Zausner, Assistant Administrator for Policy and Analysis.

William Walker, General Counsel.

Regarding our old nemesis (the $1 barrel old crude oil price increase of December 19, 1973), the statements in Tab E of the petroleum deallocation strategy have the potential for further embarrassment on this sensitive public issue. These statements infer that the C.L.C. analysis behind the increase was acceptable to

FEA. Though the propensity is for the C.L.C. increase to be defended as an Administration position, it must be recognized that we are not producing an adequate economic analysis of the old-oil decision (or therefore, the current price). Simply, the decision papers released under the Freedom of Information Act were based on general philosophical theory, not on substantive arguments. As the FEA will certainly be open to public scrutiny, and thus continuously subject to Freedom Information Act actions suits, Tab E ought to be completely re-worked or simply eliminated. In any event, it should never surface with a FEA identity.

Further (and by far the larger policy question), an appropriate and thorough analysis is still necessary to explain our energy pricing policies, regardless of Tab E's fate. Public and professional economic opinion simply does not side with the analysis to date. Even the level of analysis has been subject to wide-spread criticism, as it is noted that the subject of increased supply due to the old-oil price increase was not thoroughly discussed in the issue papers.

An analysis methodology must be developed that can demonstrate the supply effects of price increases. First, real data on exploration and production costs must be compiled. This data could then be used in conjunction with standard economic analytical tools to define both the cost of price changes and the specific benefits that would accrue. An analysis of this detail should be required when FEA is internally considering future price changes. To this, such reports should enter the FEA decision making process at the earliest possible stage. Thoroughness of such reports should be subject to review by all FEA offices.

Further, such reports should be made public when price changes are proposed or announced. This would serve both to provide a basis for public comment and inspire confidence in FEA proposals by displaying to Congress and the public our professional level of economic analysis.[1]

An institutionalized system of economic analysis reports would provide a safetguard function in the policy formulation process that would prevent such a nebulous economic review as was apparent in the case of the $1 per barrel old-oil price increase. Tab E unwittingly may serve to perpetuate such yukspeak.

RECOMMENDATIONS—SUMMARY

1. Eliminate Tab E.
2. Prepare a systematic economic policy analysis procedure to deal with major pricing decisions.
3. Apply the system regularly to current price levels as well as proposed new price levels for any and all energy products.
4. Routinely issue our analyses for public review, but particularly in conjunction with publicized notices of policy and regulation changes.

JUNE 11, 1974.

Development of Legislative Positions, Initiatives, and the Review Process.
Lee Richardson, Director, Office of Consumer Affairs.
Len Pouliot, Assistant Administrator for Management.

In formulating legislative positions within FEA, this Office can have significant input. Currently, the process totally excludes OCA, but for reasons of oversight, not plan.

As you develop a process of dealing with legislative issues, I recommend that OCA should be involved at several stages:

A. Initiation of legislative initiatives
B. Development of FEA positions on new or existing legislation
C. Provision of input on the positions of consumer and other public interest groups in the legislative issue area

In order for this process to work, OCA will have to be explicitly written into the process. Too often, consumer affairs is viewed as having a home economics point of view in the worst sense of that connotation. We can only be of value to the extent that we gain nearly automatic access to the legislative process.

JUNE 5, 1974.

Recommendation on Special Impact Office—Organizational Location.
Lee Richardson, Director, Office of Consumer Affairs.
John Sawhill, Administrator.
THRU: Leonard Pouliot, Assistant Administrator for Management.

[1] Under the Federal Energy Administration Act (Sec. 18), FEA is required to analyze the economic impact of actions with regard to various issues.

General Issue

The Special Impact Office has been proposed to move to Operations, Regulation and Compliance. Alternative locations in the organizational structure should be reconsidered.

Recommendation

The Special Impact Office should be integrated with the Office of Consumer Affairs. The combined single unit should report directly to the Administrator (option No. 2).

Options and Considerations

Option No. 1. Place Special Impact under A/A for Operations, Regulations and Compliance.

A. Special consumer and other groups may face problems arising out of the administration of the allocation and pricing programs. These problems can be handled in the operational division where they should be first detected.

B. Reporting through the A/A will limit the number of reporting units to the Administrator.

C. Congress and many public interest groups will react negatively to low placement on the organizational chart.

D. To serve the broad range of public interest responsibilities of the Office, its major value will be in providing input for policymaking as well as relaying information to the Administrator, Resource Development, Public Affairs, General Counsel, Intergovernmental Relations, Consumer Affairs and others. It is not primarily useful as a firefighting unit for an Operations office.

Option No. 2. Combine Special Impact into Consumer Affairs under Private Grievances and Redress.

A. The target populations served by Special Impact are primarily consumer (handicapped, disadvantaged, low income, etc.).

B. There is going to be continuing difficulty and waste in having two separate offices primarily assigned to consumers.

C. Combining the two offices simplifies the organizational structure and limits the number of reporting units.

D. Consumer Affairs has a favorable public image, and works with and reports directly to the Administrator. Thus, placing the functions of Special Impact at that high level will be well received by Congress, consumer, and other public interest groups.

E. Part of the current function of Special Impact is to work on problems of non-consumer groups (e.g. small business, labor, migrant workers). To the extent, that these groups must be served by FEO, it may be, but not necessarily, advisable later to transfer these non-consumer functions to another unit.

F. Possibly one or more positions could be eliminated in a merger of the two overlapping offices.

Option No. 3. Same as No. 2, except Special Impact will maintain its separate identity as a third unit under Private Grievances and Redress.

A. See Option No. 2 considerations.

B. Requires decision on how Special Impact will report. It could report separately to the Administrator, but would add more burden to the Administrator.

C. Would be most favorably received option of all three by Congress and public interest groups because of high level and independent identity.

D. Would mean continued difficult coordination with Consumer Affairs because of similar consumer target group responsibilities of both offices.

June 4, 1974.

Status of Federal Energy Office Efforts Regarding Energy Labelling of Appliances.

Lee Richardson, Director, Office of Consumer Affairs.

Mr. Thomas Nelson, Legislative Counsel.

In a recent discussion with Dr. Sawhill, the subject of energy labelling of appliances arose. At the end of that discussion, Dr. Sawhill urged that the Federal Energy Office move ahead in this area. As I understand it, our present position is one of support for the Administration's Labelling bill, S. 3255, the National Appliance and Motor Vehicle Energy Labelling Act of 1974, while we oppose

Senator Tunney's bill, S. 2176, the National Fuels and Energy Conservation Act of 1973. I have been informed that Senator Tunney's bill was passed by the Senate and is now awaiting further action in the House Committee on Interstate and Foreign Commerce and that the Administration bill was referred to the Senate Committee on Commerce and will most likely die there.

As you can imagine, I am most interested in this area, as it is one of immense concern to consumers. In addition, an energy labelling system could be of great assistance to consumers in their energy conservation efforts, thereby making our conservation programs more successful while saving them money. For these reasons, I feel that it is necessary at this time for the Federal Energy Office to adopt a definite policy in this area and to introduce or support positive legislation that is likely to be successful.

We will need all the assistance possible from the private sector of the economy if our conservation programs are to be effective. It is imperative that Federal Energy Office provide individual citizens with the tools they will need to help them curtail their use of energy. Appliance labelling would be an invaluable aid in those efforts. I urge you to do what you can to see that steps are taken by the Office of Legislative Counsel toward implementation of a labelling system.

FEDERAL ENERGY OFFICE,
Washington, D.C., May 1, 1974.

Memorandum:
Subject: Gasoline Rationing Contingency Plan.
From: Lee Richardson.
To: Duke Ligon.

Considerable time and effort has been spent in formulating a gasoline rationing contingency plan. The international or national petroleum supply/demand situation may dictate its immediate implementation at some unforeseen date. You will recall that some members of my OCA staff worked extensively on this plan. In order to insure that an acceptable rationing plan is ready for use, its organizational and operational feasibility needs to be constantly examined and reviewed as circumstances change.

As one option, the proposed plan might be published again for public comment as it was on January 16, 1974. Consumer and industry problems inherent in the plan should be subject to review, although this may not require Federal Register publication. Professionals involved in marketing, management, economics, and government should be given a chance to evaluate its practicality and readiness and to give comment to Policy, Planning and Regulation and the Administrator on its consequences.

I further recommend that these persons be provided essential documents, summary materials, and other pertinent papers.

Members of the Consumer Advisory Committee have had an interest in the gasoline rationing area in the past. I would like to be able to respond to their inquiries on this matter and also be able to provide answers to the many academicians who made input on a *pro bono* basis through me. No such requests have been received so far, however.

Chairman HUMPHREY. Mr. Sawhill, I want first of all to thank you for acceding to our request for you to come here today. I realize that you had to rearrange your schedule, and sometimes that is an imposition. But I want the record cleared that you have always cooperated in these instances when we have requested you, for which this subcommittee and the full committee is most grateful. We have never had any difficulty, I think it should be stated.

With that, you have heard some of the testimony of Mr. Richardson, and you have read about it in the press, and you did receive a copy of the letter of resignation. I wish in your own informal manner you would address yourself to these matters, because they are of great concern.

Would you introduce for us those that are with you.

STATEMENT OF HON. JOHN C. SAWHILL, ADMINISTRATOR, FEDERAL ENERGY ADMINISTRATION, ACCOMPANIED BY HAZEL R. ROLLINS, DIRECTOR, OFFICE OF CONSUMER AFFAIRS AND SPECIAL IMPACT; AND WILLIAM GEIMER, DIRECTOR, INTERGOVERNMENTAL AND REGIONAL AFFAIRS

Mr. SAWHILL. I would like to introduce first, Mrs. Hazel Rollins, who is the new Director of our Consumer Affairs and Special Impact Office.

And Mr. William Geimer, who is the Director of Intergovernmental and Regional Affairs under which Mrs. Rollins falls.

Chairman HUMPHREY. I have a brief news story by the United Press International in the Washington Post of August 15, 1974, entitled "Lawyer To Be FEA Aide on Consumers," which relates to the background and the professional competence of Hazel Rollins, of Orange, N.J.

Mrs. Rollins, I am going to take the liberty of placing this in the record as part of our official record at this point.

[The article follows:]

[Reprinted from the Washington Post, Aug. 15, 1974]

LAWYER TO BE FEA AIDE ON CONSUMERS

A former Essex County, N.J., assistant prosecutor, described as a "strong leader of the black community," has been named director of consumer affairs for the Federal Energy Administration, the highest FEA appointment for a black woman.

She is Hazel R. Rollins of Orange, N.J., whose appointment was announced Monday by FEA Administrator John C. Sawhill to succeed Lee Richardson.

In her new post, Mrs. Rollins will be responsible for reviewing the impact of FEA policies on the poor, handicapped, elderly and other consumers.

"She was a good and strong leader of the black community," said attorney Thomas Kelly of Orange, N.J., who, along with Mrs. Rollins, defended eight Black Muslims charged with assaulting policemen during the 1967 Newark riots. "I'm glad I was on her side," Kelly said.

Mrs. Rollins and Kelly represented the eight defendants in a case that eventually made its way to the New Jersey supreme court. Five of the defendants were acquitted after a five-year court fight, Kelly said.

Divorced and the mother of a 13-year-old son, Mrs. Rollins graduated from Rutgers law school in Newark in 1966 and has worked in a variety of legal positions in New Jersey.

She served as assistant attorney general for the state of New Jersey in 1967–68 and directed the Essex County legal services from 1969–70. In 1968, she directed New Jersey's American Civil Liberties Union.

In 1971, she became an assistant Essex County prosecutor in the trial division. Before joining FEA, Mrs. Rollins served with the Cost of Living Council, monitoring state and local government wage increases.

Chairman HUMPHREY. Mr. Geimer, have we had you up here before?

Mr. GEIMER. No, sir.

Chairman HUMPHREY. What is your background?

Mr. GEIMER. I am a lawyer. I practiced with a law firm in Chicago. I was a legal services lawyer in Chicago. I worked with the Office of Minority Enterprise in Washington. I was Deputy Director in VISA.

Chairman HUMPHREY. Pretty good.

Mr. SAWHILL. I think we have got a few pretty good people that have come on our team to work in this area.

Mr. Richardson has made a number of charges about the way we have disregarded the interests of the consumers, and I find most of them to be false. I would like to comment on a few of them, because I think it is important to set the record straight.

The first thing he claims is that he did not report to the Administrator and did not have access to the Administrator. He met in our staff meeting every morning with us for 30 minutes approximately, and had that time, I believe, ample access to raise any questions or issues with me, as did our other assistant administrators.

This access continued even after we decided to strengthen the Consumer Affairs Office by combining it with our Special Impact Office and appointed Mrs. Rollins to head up the combined operation.

He also said that he could not influence FEA decisionmaking, and claims that he sent me a number of memorandums on various issues.

He joined our office in approximately the middle of March. The first memorandum I received from him was on June 18, which had to do with a number of organizational matters, most of which we agreed to as part of a general directive that I sent out asking for an organizational memorandum.

The second memorandum he sent to me was on July 8, merely transmitting a paper that had been given in Europe by another group, but didn't require response.

The third memorandum was on July 9, which suggested a possible agenda for our Consumer Affairs Advisory Committee meeting, which we had adopted.

The fourth memorandum was on July 16, which was an administrative detail which we agreed to.

The fifth memorandum was on a letter from Senators, which we incorporated.

The sixth memorandum was again on organizational matter, which we again took into consideration in coming forth with our reorganization.

The next memorandum was on advisory committee policies of July 26, which we adopted in reorganizing our advisory committees.

The next memorandum was again transmitting to me some notes on our Consumer's Advisory Committee which indicated certain suggestions that they had made which I already knew about since I was president of the advisory committee meetings.

The next memorandum investigated some concerns about a letter that I sent—actually that Mr. Geimer sent to a number of people in the Congress. And we did take into account some of the suggestions Mr. Richardson indicated.

The next memorandum concerned conservation goals, and made the point that small car sales were decreasing, and that we should be concerned about that and meet with automobile manufacturers to determine what could be done to improve the efficiency of automobiles. I have met with the heads of each of the three major automobile companies in this country, and I have in fact urged them to build more energy efficient cars, and beyond that, I have asked them to put forward programs under which they will set goals on building more energy efficient cars.

Chairman HUMPHREY. You have been more successful on that, have you, Mr. Sawhill?

Mr. SAWHILL. I think they have. They have enforced the program and they intend to announce publicly with me, goals for 1976, 1978, and 1980 for making our automobiles more energy efficient.

Chairman HUMPHREY. Why are they so tardy? We have been on their backs for 5 years. I remember when I was Vice President of the United States in 1966 on this business I was given the big song and dance about how they were going to make more efficient, energy efficient, cars and we were going to get pollution-free cars by 1970, because we were talking in 1966 about environmental protection. I specifically recall the visit. I thought, well by 1970 we are going to have this thing under control. Of course, by 1974 they were demanding that they have more time.

I don't see any energy-efficient automobiles. As a matter of fact, they consume it like gluttons.

Mr. SAWHILL. Maybe I am an overoptimist—and I admit I just started this program, because I have just taken over my responsibilities—but I believe they now have the incentive, because of higher fuel costs, to do it, and that they will get on with it. I think we can take our cars which currently average about 13½ miles per gallon and increase that to 17 miles per gallon, 19 miles per gallon by 1985. If, in fact, we can achieve those goals we will save as much energy as we will get from the Alaskan pipeline. So you can see it is a very important objective for national policy.

Chairman HUMPHREY. Absolutely. Don't misunderstand me. I commend you for your insistence. But my own point is, I notice that even the President of the United States didn't have the influence with General Motors, much less the Administrator of FEA. They just announced what they are going to charge for a new car.

Mr. SAWHILL. I think we will have more success with energy efficient cars.

I have three more memorandums here that were sent to me—and incidentally, these last several were all in the office after I had decided to reorganize the Consumer Affairs Office with Mrs. Rollins as Director—in which Richardson made the point about market structure that he was discussing when we walked in. I thought it was a good memorandum, in fact, immediately thereafter. I met with Lou Engman of the FTC, and we agreed to exchange information—and I will be brief—with members of his staff about work they were doing in the market structure. There is no use duplicating what they are already doing, but we can build on it. I have testified before the Congress several times about the importance of looking into the market structure, and our concern about this. We certainly do plan to consider it in the Project Independence blueprint.

The final memorandum complimented me on the superb letter I sent to the oil marketers. So naturally I was pleased to receive that compliment.

There was the memorandum that Mr. Richardson just mentioned on oil company profits. As soon as I received that, I clipped a little note to it—even though this was after Mr. Richardson's story, which, of course, I thought contained a number of misstatements, which appeared in the Washington Post—that said: "Richardson made some good points, all of which were disregarded in preparing our testimony, the testimony which we gave this week. Let's do better next time."

So I did feel that he made some good points in this memorandum about our profit study, and that we should improve it.

So the fact that I didn't pay any attention to his memorandum is wrong. I have got the memorandums, and I think I have explained that in each case I took action.

Mr. Richardson also claims that we don't care about consumers. The fact is that we do care about consumers and care very deeply. That is one of the reasons I have initiated and organized a new and stronger consumer program, and replaced Richardson with more aggressive leadership in the person of Mrs. Rollins. This new program was established after consulting with consumer interest leadership, including Lee White, Chairman of our Consumer Advisory Committee, Ralph Nader, and Virginia Knauer. It was agreed with all three that our old program had not been strong enough, and that we needed to strengthen it considerably.

Today, with the exception of Mrs. Knauer's staff, we have one of the largest consumer staffs in the Government.

Chairman HUMPHREY. How big is it?

Mr. SAWHILL. Twenty-four people, which includes 10 people in our regional office. And these are people that are working on behalf of American consumers to identify and analyze important consumer issues and bring them to my attention. I think you can see from the memorandums that I have mentioned that there is very little identification with consumer issues in them. Sure, in late August, after it was known that Mr. Richardson was leaving, he did write a few memorandums to me on consumer issues. But what happened between March 15 and August 1? Very little.

Now, I did receive good consumer input from my Consumer Advisory Committee chaired by Lee White, and composed of a number of distinguished consumer representatives. I meet with them at least monthly. They have provided me with very good input on consumer problems. But this doesn't mean that I accept every suggestion that they make. Frankly, we do have a disagreement about oil prices. The Consumer Committee has contended that we should roll back oil prices. Our position has been that we should not roll back oil prices. There are, I think, grounds for legitimate disagreement on this question.

Chairman HUMPHREY. The Senate thought you ought to roll back oil prices, too.

Mr. SAWHILL. And the House did not.

Chairman HUMPHREY. And the House did not. It is a tough job.

Mr. SAWHILL. So we had a disagreement on that.

Chairman HUMPHREY. Of the 24 members in your Consumer Affairs totally, how many of those would you classify, Mr. Sawhill, as professionals?

Mr. SAWHILL. Oh, I would say 15—18, maybe, 15 to 18.

Chairman HUMPHREY. That includes regional as well as central offices?

Mr. SAWHILL. Yes. We want to have a professional in every region, and we want to have, I think, at least eight professionals in Washington. We want to have economists, people that can really effectively analyze which consumers are being disadvantaged by which policies that we are promulgating so that we can take some action to do something about it.

I also have here, incidentally, a list of all the actions which we feel we have taken on behalf of the consumers. And in this list there are some 31 actions that we have taken, including sponsoring a summer film program for consumers, particularly in New England, initiating Project Speculator, which was a project to insure that there were no violations in propane price, recently issuing a methane pollution rule which resulted in reducing propane prices, and establishing a new transfer price regulation that would let us control prices at the point of entry of oil into this country, and a whole host of other things that I won't go into.

Chairman HUMPHREY. Has that been effectuated, the transfer price?

Mr. SAWHILL. That has been effectuated as a proposed rule. We are in the process of finalizing it right now.

Chairman HUMPHREY. This is the one that relates to the declared interest of some of the independent refiners?

Mr. SAWHILL. No. That is another program, a so-called crude equalization program, about which I recently received a letter, suggested by Senator Hart and 29 of his colleagues, I believe.

Chairman HUMPHREY. I believe I was one of those.

Mr. SAWHILL. Yes, sir. I think that was a very good suggestion, and I would think by the end of this month we could have a program available.

Chairman HUMPHREY. Haven't we been working on that a long time?

Mr. SAWHILL. I hate to be bureaucratic about it, it is not my style, but it is a very tough thing, because of the number of different quality grades of product. I have had to have a lot of expert help on that issue. But we are getting very, very close.

Chairman HUMPHREY. Each time that I ask you about it you seem to be in sympathy with the suggestion. But each time the egg just hasn't hatched.

Mr. SAWHILL. I admit, we have not been as fast as we would have liked to have been. But I will say that it is a very difficult subject.

Chairman HUMPHREY. Do you have any idea when that is going to become reality, when you are going to finalize your decision?

Mr. SAWHILL. Our decision is made in concept. We are going to have a crude equalization program. The difficulty we are having is ironing out the technical details to make a workable program.

Chairman HUMPHREY. I see. Do you have any idea how long it would take to iron it out?

Mr. SAWHILL. I am hopeful that by the end of this month we can have a program at least available for comment. I will have to say again, though, that it is technically a difficult thing to install.

Incidentally, Mr. Richardson criticized us for not being more vigorous in the conservation area. I think I have probably been the leading administration spokesman on energy conservation recently. I wrote a letter to the oil companies telling them to stop hard-sell tactics to get consumers to buy more gasoline. I have met with the heads of the automobile companies, as I told you. I am currently meeting with the heads of the major energy consumer industries, getting them to publicly establish goals for more efficient energy production. Mr. Richardson never once gave me any suggestions regarding conservation of the environment as I can recall. We are also vigorously pursuing a mandatory energy labeling bill here in the Congress, and I believe we will have some success with that. I was notified of that as recently as yesterday.

Chairman HUMPHREY. I think this record should show that insofar as I know as chairman of this subcommittee, that you have been promoting conservation.

Mr. SAWHILL. Yes; and I will continue to do so, because I believe in it very strongly.

Chairman HUMPHREY. What do you think about what people are referring to as "watering down" gasoline? I constantly hear from drivers, taxicab drivers, that the regular gasoline doesn't operate like it used to, its octane is lower, and its combustion qualities are less, et cetera. What about that? Is there any truth to that?

Mr. SAWHILL. I honestly don't know. That was one of the subjects that Lou Engman and I discussed when we met recently. This really is an FTC program to develop an octane rating system. We are working with them on that, and we will be vigilant to make sure that doesn't happen.

Chairman HUMPHREY. There is a general feeling among the consuming public that gas coming out of pumps labeled regular, does not have the same octane rating, or whatever you call it, as it had, say, a year ago. As they say out in the street, it is watered down. Now, is there any truth to that, do you know?

Mr. SAWHILL. I don't know of any instances of that, no. As a matter of fact, I have never really heard it stated quite that way. But we will be glad to do an investigation of it.

Chairman HUMPHREY. I am going to suggest that Mrs. Rollins may very well want to look into this now.

Mrs. ROLLINS. I am writing it down now.

Chairman HUMPHREY. I believe you were in the prosecutor's office in New Jersey?

Mrs. ROLLINS. That is correct.

Chairman HUMPHREY. I am giving you an assignment.

Mrs. ROLLINS. I am taking it down.

Chairman HUMPHREY. I am very serious about this. I was out at the airport the other day waiting for my luggage—you know, you learn a lot from people who are not professionals, as a matter of fact, that is probably where you learn the most—and I was talking to these drivers out there, and they gather around you and visit. And to a man, they said—in fact there were two women as well—the engines don't work like they used to, the gas doesn't have the kick it used to have. One of them said to me, listen, Senator, you ought to take a look and see how much water they are putting in this gasoline.

I said, I don't know whether they are putting water in it, but I know my own car doesn't work good, it has new plugs, and so forth, but it doesn't run at all like it used to.

I heard this from people all over the country wherever I go. I really urge you to use that prosecuting ability that you are so respected for, Mrs. Rollins, to really look into it.

rs. ROLLINS. We will, Senator.

Chairman HUMPHREY. Thank you.

Mr. Sawhill, Mr. Richardson has gone, and obviously he is not going to be rehired, and he is not asking to be. So we want to look a little bit ahead.

I notice in the Wall Street Journal—I have forgotten the date, I believe it is today or yesterday—a story by Mr. Les Gapay, let me just identify the story, an article entitled "Energy Office Aide Quits, Criticizes Unit for Ignoring Public, Favoring Oil Firms."

Then in the final paragraph of that story it reads, "Lee White, a former Chairman of the Federal Power Commission, and until recently head of a now-defunct Consumer Advisory Committee to the energy agencies, said he agreed with much of the criticism by Mr. Richardson. Mr. White said his group made its points to energy officials, but most of its proconsumer views, such as the stricter price controls of the oil industry, weren't implemented."

I understand that Mr. Nader concurs in that view. Would you like to address yourself to that?

Mr. SAWHILL. I don't know whether Mr. Nader does or not. He hasn't told me that he does. I talked to both Mr. Nader and Mr. White prior to reorganization. They don't agree with me about a number of things. There is no question about it. But I know they both feel that I am always receptive and willing to listen to them, that we have adopted some of their suggestions if not all.

For example, Mr. Nader suggested to me that I meet with a man named Kendall, who is quite concerned with nuclear safety. Mr. Richardson makes the point that I haven't been concerned with nuclear safety. But actually I adopted Mr. Nader's suggestion, and met with Mr. Kendall, and I have asked Mr. Kendall to prepare a report for me elaborating in some detail objections to nuclear reaction, and also to comment on the so-called Rasmussen study which was a study of nuclear safety.

It is true that there is a disagreement between Messrs. White and Nader and myself on the issue of price controls. The Cost of Living Council raised the price of old oil by $1 to $5.25 a barrel prior to the time that Mr. Simon and I assumed our positions. We feel that the present $5.25 price is justified, and that we should continue to control old oil at that price. It is very difficult to justify a particular price as opposed to a price a little bit higher or a little bit lower. The only way you can do that is by looking at the cost of developing alternative supplies and the capital requirements of the industry and the profitability of the industry. We believe, when judged by these criteria, that the price certainly is in the range that it makes sense. We have opposed a price rollback. As you knew, President Nixon vetoed a bill requiring a rollback, contending that that was one of the major reasons for his veto. I assume that President Ford would also endorse that policy. But on the other hand, we have not let the pricing go beyond that $5.25 level. And would intend to continue at that level.

One other point. The reference to the now-defunct Consumer Committee is a little bit inaccurate. When our legislation passed all of our committees were defunct. That was right at the end of June.

Chairman HUMPHREY. Yes; that is a fair statement, it should be noted.

Mr. SAWHILL. We have now issued new charters for all of these committees. I have recently, 2 or 3 weeks ago, asked Lee White if he would continue to serve as Chairman of the Consumer Committee, and he agreed that he would. Now, I don't agree with Lee White about a lot of issues. But I think it is very important that I have someone of his standing and caliber and intelligence to debate these important issues with.

Chairman HUMPHREY. Very good.

Wherever the blame may lie for the Consumer Affairs Office not being integrated into the decisionmaking process as Mr. Richardson has indicated, don't you feel that this Consumer Affairs Office, or whatever you wish to call it, should be given more clout and should be strengthened?

Mr. SAWHILL. I certainly do. We will submit to you if we can—we are getting a lot of things in, but I think it is important that we be here—a complete organization and program for the Consumer Affairs Office, because we intend to make this an integral and important part of our organization. That is why we need a person with the skills and the personality, a person that is aggressive, as aggressive as Mrs. Rollins is, who does not sit around and wait for me to answer memos that she sends me, but calls me up, comes into my office and raises issues with me, so if something is going wrong, she will tell me about it. This is the kind of person, incidentally, that Lee White suggested we get into this job.

Chairman HUMPHREY. Is Mrs. Rollins going to be able to speak her mind on consumer affairs without being held in disdain by the Agency and its Administrator?

Mr. SAWHILL. She certainly is. I welcome her views. As I say, we operate in a very sensitive position in the FEA, because we are regulating something that is terribly important to the American people. We have to balance off the interests of those who want to keep the price down against those who feel that it is necessary to develop and bring a new supply and to have the capital necessary to do it against those who feel that we shouldn't develop so rapidly because of environmental considerations; and there are all these different interests. And many times they are opposing. For example, the environmentalists feel very strongly about higher rates for electricity and incremental costs. Consumer groups feel the opposite way. We have to somehow try to understand these opposing views and reach positions which we think are in the best interests of the Nation. So when I say Mrs. Rollins will always have the right and the privilege—and I expect to see quite a bit of her, speaking forcefully for consumers—this doesn't mean that we will always adopt her suggestions, but she will always be able to make her views known. She is a very intelligent person, and I think will do a good job representing the American consumers in the very difficult environment in which we operate.

Chairman HUMPHREY. Will she have direct access to your office?

Mr. SAWHILL. She certainly will and will attend the morning staff meeting, every morning, at which time she has the opportunity to raise any issues that she feels are important for us as an agency.

Furthermore, we have in our agency what we call an issue process. Every time an important decision comes up, we make sure to circulate this throughout the agency so that everybody has a chance to comment on it. Mrs. Rollins will be one of those people in the agency to whom those issues will be circulated.

Chairman HUMPHREY. As I understand it from Mr. Richardson's letter of resignation and his comment before this subcommittee, he did not feel that the Office of Consumer Affairs was integrated into what you call "take issue" process. Is that a fact? If so, has it been corrected? Will the Office under Mrs. Rollins be directly involved in the issue process?

Mr. SAWHILL. It certainly will be directly involved in the issue process.

Chairman HUMPHREY. Was it in the past?

Mr. SAWHILL. I feel it was in the past, yes. I feel that Mr. Richardson always had access to the decisions that were being made in the organization. It requires, you know, in a Federal agency, more than just the process, it requires aggressive people who are willing to assert themselves and take command of a situation. That is the kind of person that Mrs. Rollins is, and that is why not only will we send her memos, but we expect her to attend our morning staff meetings and find out what is going on and speak up on behalf of American consumers. That is the way things really get done and decisions get influenced.

Chairman HUMPHREY. The issue here, insomuch as I am interested in administration, it really gets down to what we call the pocketbook issues. This is one that we have argued about on this committee with you and with others. There are honest differences of opinion in the Congress about it. Mr. Richardson charged that FEA essentially subsidizes the oil industry by putting the stamp of approval on huge oil industry profits without any justification. In his letter of resignation he says:

> The primary instance of a false magic profit theory is seen in the blind belief that huge multi-billion dollar increases in oil company profits in the first half of 1974 will ultimately produce newer and cheaper supplies of energy. If such profits are adequate or excessive FEA doesn't yet know. FEA has not been able to even assemble, much less analyze the information necessary to get an answer to that question.

What evidence would you present, Mr. Sawhill, to assure the Members of Congress and the public that you have a better idea about what profits are necessary in the oil industry than Mr. Richardson's charges indicate?

Mr. SAWHILL. Those charges are fine rhetoric, but I don't think they really deal with the facts. The fact is this, that the oil industry has had a rate of return below that of the average American industry for the last 5 years; that is, through 1972. In 1973 the profits increased considerably, as a result of a number of factors, including devaluation, better earnings on tanker rates, and from petrochemical operations, and substantial inventory earnings because of the rapidly escalating prices of foreign oil. Those same increases have continued into 1974. Now, what we are really concerned about as we develop a national energy policy for incountry is that we have a program which will result in increasing the energy supplies to this Nation, so that we will no longer be so heavily dependent and vulnerable to supplies from those countries that we import oil from. Therefore we have got to be assured that there is an adequate rate of return provided to the oil industry and other energy industries so that they will attract the kind of capital needed to expand energy supplies.

Now, nobody knows exactly how many dollars will be needed in capital investment over the next 10 years for the energy industries. Bob Holland of the Federal Reserve Board has made some estimates in the $600 and $700 billion range. New York banks have made some other estimates that are a little larger. But by any measure it is going to be a very substantial increase over the capital needs in the last decade. In other words, the capital for the energy industry will probably increase from 25 percent of the total capital spending in this country to 30 or 35 percent. The only way we are going to get that kind of capital shift is if the industry has an adequate rate of return. What do we mean by an adequate return? I think we mean a return that is at least above the average for all American industry. The oil industry's returns on their domestic investment——

Chairman HUMPHREY. On what, domestic investment?

Mr. SAWHILL. Yes, because we are asking them to invest in domestic operations rather than foreign operations. We are asking them to bring that money home and put it in wells in this country and in coal mines and nuclear plants in this country so that we can develop our domestic resources.

Chairman HUMPHREY. Yes, but their profits were not just domestic, their profits are international, and those international profits are immense.

Mr. SAWHILL. They have been very large, but what we are saying to them in effect is, take those international profits and invest them in domestic energy production. The only way that our system has of making that work is by providing adequate returns on domestic energy opportunities. Frankly, the return even in 1973, when profits were somewhat artificially inflated, was only 13 percent. That just isn't way out of line with the rest of industry in this country.

So I am not contending that we know exactly what the level of profitability should be. That really isn't my job, to regulate profits. My job is to regulate industry and regulate prices in that industry to prevent inflation. I think we have done that.

Chairman HUMPHREY. Mr. Sawhill, I am going to ask Senator Metzenbaum, who has been keenly interested in this subject, to ask you a question. This is somewhat out of what we call the routine of our subcommittee, but I don't abide by all that formality. I think the important thing is that we get information.

Mr. SAWHILL. I think it is, too.

Chairman HUMPHREY. Before I turn this over to him, what analysis have you made or—I don't mean you particularly—what analysis has the Federal Energy Administration made that will reveal that the increase in profits results from increased production? There are no production figures to date.

Mr. SAWHILL. I think what we can show you is that the increase in profit has resulted in substantial increases in investment; that is, a lot more wells have been drilled. Now, those wells aren't at the stage yet where they are ready to produce, because the profit increase has only come recently. But I think we can show you that the drilling activity is up 30 to 35 percent over last year. As a matter of fact, there are some shortages in drilling rigs and pipe, and we will show you some substantial increases in refinery investment, and investments in other energy related activities and in coal production and in the nuclear energy. I think this ultimately has got to lead to increased production.

Chairman HUMPHREY. I might add, that the reference to the drilling and the utilization of rigs is related to the new production, not the old oil. Of course, much of the argument is over the $1-a-barrel increase in old oil. And the stripper wells, the new production is not under any control.

Mr. SAWHILL. I decided to exempt the stripper wells.

Chairman HUMPHREY. Senator Metzenbaum, you had some questions that you wanted to ask.

Senator METZENBAUM. Mr. Sawhill, you have constantly referred to the fact that the oil companies have received a lower rate of return. Isn't it because of the fact that they use different methods of accounting, and a 100 percent of the balance of American industry, and that is the only reason that they receive a lower return, and that the major banks in this country use two separate charts, one for oil companies methods of computing their rate of return, and the other for the normal rates?

Mr. SAWHILL. I am not familiar with the different accounting treatments of oil company profits.

Senator METZENBAUM. Let me bring my point out to you, then. There isn't any question about it that the oil companies are the only industry in America that crank into their computation the amount of money which they borrow in order to figure out what their rate of return is, rather than a return on their equity investment. This is distinguishable from a 100 percent of the balance of American industry, nobody else does that, and therefore their figures are totally misleading.

Mr. SAWHILL. No, sir, they aren't misleading, the comparisons I am making I believe are on a comparable basis.

Chairman HUMPHREY. I think that ought to be clearly integrated, Mr. Sawhill, because I heard a discussion here recently on one of the national TV networks about the profits of the oil industry vis-a-vis that of normal other American industrial production companies. The argument was made very much along the lines of Senator Metzenbaum, that the bookkeeping methods, the accounting methods, are appreciably different, very different, and that there is no comparability. It is like carrying apples and oranges. People ought to know that.

Mr. SAWHILL. I would be glad to give you our analysis anyway of that situation.

Chairman HUMPHREY. Can you give us any projection as to when the so-called new production, expanded production, will come into action as a result of tremendous profit increases? I don't think any American is going to believe that the oil companies aren't just wallowing in profits today. I don't care how much arithmetic you use, you pick up the Wall Street Journal and you see Gulf Oil and Mobil Oil, and you will see the different companies, Exxon, and what have you, with huge quarterly increases. By the way, they weren't going broke before, there was no indication that there was mass liquidation or insolvency before 1973. As a matter of fact, they were good stocks, and people were making investment in them, and they were considered gilt-edged as far as stocks are concerned. Since that time, it has been a bonanza. And, of course, as that international oil price goes up, we get the idea that it is just the Arab countries that are making more. But remember that the American companies were partners of these governments. So when the Arabs jacked up the oil prices to over $10 a barrel, 50 percent of that oil company was owned by

American companies, or 40 percent, or 60 percent, whatever it was, and they got their share. So all these crocodile tears that are being shed, with these Arabs jacking up the oil prices and telling us poor Americans, might I say, that they had some accomplices in it. Those accomplices were carrying American citizenships.

Mr. SAWHILL. I don't want to give you the impression that I am shedding crocodile tears for the oil companies.

Chairman HUMPHREY. I don't mean you. I am looking at the TV ads.

Go ahead, Senator Metzenbaum.

Senator METZENBAUM. Before I ask a few other questions—and I do have some—I do want to commend the chairman for setting up this hearing having to do with the consumer interests vis-a-vis the Federal Energy Administration, because as you know, Mr. Sawhill, I previously vested similar concerns. Mr. Richardson, who was here today also saw fit to mention the lower rate of return on the domestic industry. The reason for the lower return on the domestic investment really relates to the entire pricing regulations, and the fact that the American oil companies are paying their subsidiaries located in Saudi Arabia and Kuwait and the other parts of the world, a higher dollar figure, and that the foreign subsidiaries are showing tremendous profits while the American domestic companies do not show profits. As a matter of fact, the American oil companies wind up with great tax advantages as a consequence. Now, I intimated, or indicated, I guess, rather than intimated, that the transfer pricing regulation which you had stated was put out for comments prior to June 17, would soon be deactivated. I know I filed with your office a commendatory comment in connection with it. I am concerned, because that transfer pricing regulation really would cause a rollback in prices for the American consumer if you do with it that which you had originally indicated you were going to do with it. When will that regulation become effective, and if it does become effective, what will it mean as far as prices to the American consumer?

Mr. SAWHILL. I believe it will be effective by the end of this month. As far as the impact on prices, I really wouldn't be able to estimate that.

Senator METZENBAUM. We know that you put out a press release at a much earlier point indicating that through this procedure, and through the failure of Gulf Oil to conform with the transfer pricing procedures, that you told a Senate committee you had authority to effectuate, that there would be refunded to the American people $40 million by Gulf Oil Co. What is the status of that matter?

Mr. SAWHILL. That is still being worked on by our lawyers.

Chairman HUMPHREY. When, if ever, can the American people hope to see that $40 million as far as the other refunds that were talked about in the press release that were put out probably 6 to 8 weeks ago?

Mr. SAWHILL. Well, I should say this was what we called a notice of probable violation. This meant that the company has a chance to come in and state their side of the case. We make our findings, they come in and indicate their findings, and then we make a decision. I have not been presented with the facts for making a decision yet. So I really can't say when that will be done, although our General Counsel, along with most of the lawyers in the country, is out in Honolulu this week. So I don't have an answer.

Senator METZENBAUM. Will the transfer pricing regulation cause a decrease in the price of gasoline to the American consumers?

Mr. SAWHILL. I wouldn't be prepared to indicate what the impact would be.

Senator METZENBAUM. I didn't ask the amount, I just asked would it be?

Mr. SAWHILL. I would say, until I really have a chance to look at the facts basically, and look at the regulation, and see how different companies are conforming to the regulation, I really don't know whether it would cause any.

Senator METZENBAUM. Mr. Sawhill, you and I have discussed on several occasions the fact that American oil companies are paying their foreign subsidiaries more, for a price higher, than that which might be considered their actual cost.

Mr. SAWHILL. We certainly had some indications of that. But by the same token, I don't believe it would be appropriate for me to say they definitely were doing this until they have had a chance to come in and state their side of the case.

Senator METZENBAUM. Isn't this part of the problem of concerning yourself with the consumer, and the failure to implement the regulation?

Mr. SAWHILL. Absolutely.

Senator METZENBAUM. It is really a question of whether the FEA moves in the direction of protecting the consumer, or whether it really moves in the direction of causing the oil companies to seek higher profits?

Mr. SAWHILL. I don't think we ought to have any concern about that. We certainly are concerned about consumers, and we will fulfill our responsibilities as we see them to protect the interest of the consumers.

Senator METZENBAUM. In the recent letter that you mentioned, as one of the things that has been done for consumers, you wrote to the oil companies of this country because they were involved in trying to dispose of their excess production. Wasn't the net impact of your communication, really the thrust of it, that they ought not to be engaging in price-cutting wars?

Mr. SAWHILL. No; that they ought not to be engaged in hard sell tactics, that they oughtn't to write letters to their dealers, for example, asking their dealers to stay open all night in order to sell their supplies, and they ought not to threaten their dealers with a loss of their leases because they didn't conform to such hard sell techniques. We certainly would be delighted to see prices come down.

Senator METZENBAUM. Was that mentioned in the letter?

Mr. SAWHILL. We did not mention reducing prices in the letter; no.

Senator METZENBAUM. You only mentioned the fact that you didn't want them to cause their stations to be open longer hours?

Mr. SAWHILL. That was the thrust of the letter; yes.

Senator METZENBAUM. And wouldn't that have a consumer concern? Was the Consumer Affairs Office consulted on that subject?

Mr. SAWHILL. On the subject of this letter?

Senator METZENBAUM. Yes.

Mr. SAWHILL. This letter was discussed in our morning staff meetings. And, of course, the Director of the Office of Consumer Affairs was present at that meeting.

Senator METZENBAUM. Was there any comment?

Mr. SAWHILL. I don't recall any comment, no. He rarely made comments.

Senator METZENBAUM. The higher the price paid to the Arab oil nations, the higher the profits of the American oil companies, is that true, because new oil then reaches that higher level?

Mr. SAWHILL. If new oil goes up consistent with higher world prices, then higher world prices do mean higher new oil prices, yes. And that does increase profits.

Senator METZENBAUM. Can you state any one single action taken by the Federal Energy Administration to cause a price reduction to the American consumer of petroleum products?

Mr. SAWHILL. Yes. As a matter of fact, just recently I wrote to every Member of Congress about an emergency rule which I instituted for propane, because that was causing considerable hardship to the American people, and that should result in stabilizing and perhaps reducing the price of propane.

Senator METZENBAUM. I meant with respect to gasoline.

Mr. SAWHILL. Well, the fact that I am controlling prices at the $5.25 level for domestic crude oil, rather than letting that move up is keeping gasoline prices from rising. We do have price controls on gasoline, and we must do this by law, so that only increases in production cost can be passed onto the American motorists.

Senator METZENBAUM. On that score, didn't GAO just recently put out a report stating that although you have the controls, you are failing to monitor them sufficiently to protect the American people?

Mr. SAWHILL. No. Their concern was more with whether we were monitoring the market share of the independents. I don't think it was our price control program. The fact is, we have achieved millions of dollars in rollbacks in gasoline prices as a result of violations. We have a large enforcement activity of over 900 people located around the country that has taken a number of price sweeps through gasoline stations, is auditing the 30 largest refiners in this country. Now, I don't say that we shouldn't improve, and I am sure we should. I think GAO feels that we should improve. But after all, we are a fairly new agency, and it is difficult, since we don't bring people in from the oil industry by and large, it is difficult to get people and train them in enforcement techniques.

Senator METZENBAUM. You mentioned these 900 people. You indicated that you have had millions of dollars of rollbacks.

Mr. SAWHILL. Yes.

Senator METZENBAUM. Could you just give me some example of one rollback that was applicable to one of the major oil companies? Because the Gulf one hasn't been implemented.

Mr. SAWHILL. We had a rollback last spring of approximately $10 million in connection with Continental Oil.

Senator METZENBAUM. That was last spring?

Mr. SAWHILL. Yes.

Senator METZENBAUM. And now it is August.

Mr. SAWHILL. Well, we have had rollbacks of about $100 million. I believe. It isn't only the oil companies, it is the gas stations, and at the wholesalers in between. We have $26 million of rollbacks in the propane area. I think your enforcement staff has clearly got its way.

Senator METZENBAUM. Thank you.

Chairman HUMPHREY. I am going to ask, Mr. Sawhill, that the FEA now undertake a major study to examine oil industry profits and their relationship to supply, how these profits are calculated, and what is the effect of transfer payments upon profits and a definition or delineation of any differences in accounting methods on the part of the oil industry as compared to other parts of American industry. We have got to get this. We have been talking about this for more than a year and a half. The Federal Trade Commission doesn't have very much information on the oil industry, Federal Energy Administration doesn't have enough information on the oil industry. You are getting more of it. But when we started out there was practically none.

Mr. SAWHILL. When we started out there was none. Our information sources are improving very rapidly. But we would welcome your directive to initiate a broadscale study of oil industry profits and report back to you.

Chairman HUMPHREY. The concerns vested here by the pertinent questioning of Senator Metzenbaum—I was so pleased to have him come here, because he has spent a lot of time on this, he is a respected businessman, and knows his subject matter.

Mr. SAWHILL. Yes.

Chairman HUMPHREY. I know that he has been in contact with your office from time-to-time. He also addressed our caucus on these matters, and left a very good impression among all of his colleagues in the Senate. So we are deeply concerned and his being here today to express his views and give us a sense of direction on what we want from your agency is welcome.

Mr. SAWHILL. We would be delighted to do that. And we hope you will give us an opportunity to present it in a public hearing.

Chairman HUMPHREY. We want that done.

In May 1973 the dealers' markup on gasoline was frozen at about 7¼ cents per gallon—I believe that is about right?

Mr. SAWHILL. Approximately.

Chairman HUMPHREY. The dealers' profit margin was raised about 1 cent per gallon in January 1974.

Mr. SAWHILL. Yes, sir.

Chairman HUMPHREY. Then as I recall, 2 cents per gallon in March of 1974. These profit margin increases were justified, that is, they were explained as needed to offset dealers' loss of sales volume due to the gasoline shortage last winter. That was the justification.

Mr. SAWHILL. That was one justification.

Chairman HUMPHREY. The main justification, as our testimony shows.

Today, although competition has reduced some dealer profit margins slightly, the average dealer profit margin for July 1974 is 14.4 per gallon, about 37 percent higher than on March 1973. This will cost the consumer about $3 billion annually. Since gasoline sales volume has risen and the number of dealers has declined, why hasn't

FEA rolled back part or all of the 3 cents per gallon increase in dealer profit margins?

Mr. SAWHILL. Well, we can certainly take a look at dealer profit margins. There also has been a factor in there of the increases in their nonproduct cost as well as their product cost. I believe those margins are gross profit margins; that is, the difference between their selling price and their product cost. We have had to look at the nonproduct cost increases that have been incurred because of higher rents, and higher labor costs, and so forth.

Chairman HUMPHREY. In fact, the other part of my question is, Can FEA demonstrate that inflation and other cost increases justify maintaining this increase in profit?

Mr. SAWHILL. That was part of the reason for the increase. But we have a very active dealer advisory committee working with us. I will address this question to them at our next meeting.

Chairman HUMPHREY. Of course, we know that a dealer has got to have a profit.

Mr. SAWHILL. Yes, sir.

Chairman HUMPHREY. You can't keep people running their business operations on such slim margins that they constantly are facing the possibility of liquidation. I want to see a fair profit for dealers. But the justification made for the 2-cent increase, particularly in March, was that the volume of sales had gone down so much, due to the shortage, that something had to be done to keep these station operators and dealers through it. That made sense at the time, and you explained that to this committee and to other committees. Now with the volume up, and with the average profit per gallon up, whether it is gross or net, I gather that the 20 cents per gallon is a gross profit——

Mr. SAWHILL. Yes, sir.

Chairman HUMPHREY [continuing]. Unless these increases can be justified due to increased cost of operation, I think that it is the duty of FEA to adjust those profit margins.

May I say that this is why Senator Ribicoff is on the Senate floor right now, and will be next week, and we will be voting again next week on the Consumer Protection Agency bill, because the agencies of the Government that are supposed to do these things just are not being sufficiently consumer oriented. Every one of these agencies, whether it is the Federal Power Commission, the Securities and Exchange Commission, the Federal Trade Commission, the Tariff Commission, or the Federal Aviation Agency, all these are arms of Congress, not the executive branch, but of the Congress. They are there with an express legislative purpose to look after the consumer's interest.

I really must say that because of the concern that people have over these high prices, that there has to be more emphasis. I would hope that with the assistance of very respected and talented associates, that you not only look to see that the profits are good so you can get more production, which is the theory, but are the profits excessive and a burden upon the consumer, because we are supposed to be dampening down inflation. We don't dampen down inflation just by cutting expenditures. If you can save $3 billion to the consumers of this country on lower gasoline costs, that will do more about inflation than all the Federal expenditure cuts we are going to make. We are going to cut about a billion. That is just for openers. When we get through with this budget it will be $5 billion. The message is clear.

I want to know why there isn't some cutback in excess profit margins. We look at steel, and oil. and we go down the line, and some of these companies that are involved in what we call the large inflation items, are just having a field day. The Government has got a responsibility to the consumer if you are really going to fight inflation. I am sick and tired of having people tell us that is the only way to fight inflation. That is one way but it is not nearly as important as cutting the price of gasoline. That will do much more.

Now, I don't believe in cutting the price of gasoline to put a man out of business. We want gasoline stations. We have got to have wholesalers and jobbers and refiners. I believe they are entitled to make a fair and decent profit. First of all, it was a Government agency that gave them 3 cents additional under regulation, and 2 cents to compensate for loss of volume, and now when the volume is up, I think we ought to reexamine it.

Mr. SAWHILL. We will.

Chairman HUMPHREY. By the way, I notice that there are gasoline surpluses. Why don't they cut the price and get rid of it?

Mr. SAWHILL. Some have cut the price.

Chairman HUMPHREY. I think that would be hard to sell, Mr. Sawhill. There is not much cut in price. I use my own analogy that you heard, when old chickens lay more eggs, the price of eggs goes down. But when the oil companies produce more gasoline and they get the price up, it stays there—unless you get those independent dealers that are competitive. When the oil crisis liquidated so many of these independent operators, and the big oil companies refuse to ship oil to their name brand dealers, they locked themselves into control of a market area. There isn't any competition to force them to reduce those prices. What is the average going price for regular gasoline?

Mr. SAWHILL. About 55 cents.

Chairman HUMPHREY. It has been 55 cents all summer long.

Mr. SAWHILL. I admit it hasn't come down very much. The cost has come down a penny or so.

Chairman HUMPHREY. There is just one station out there in Delano, Minn., he is a nice little independent and he must have good connections—who has always got gasoline, and it is 49.9. But if you haven't got enough to get there you are in a hard way.

Your agency is supposed to provide reports to Congress, Mr. Sawhill. There is the one on the monitoring system to help protect independents. Now, that report was supposed to be in long ago. The Emergency Petroleum Allocation Act requires monthly reports on the market share of independent distributors beginning in January 1974. I gather this is the first report.

Mr. SAWHILL. Yes, sir.

Chairman HUMPHREY. Eight months late?

Mr. SAWHILL. Yes, sir.

Chairman HUMPHREY. Do you think you can do better on the next one?

Mr. SAWHILL. I think so.

Chairman HUMPHREY. What would you attribute that lateness to?

Mr. SAWHILL. The reason we had it late was because Congress asked us to report information that had never been collected before. Before we could report it we had to go out and collect it.

Chairman HUMPHREY. Is your data collecting system sufficiently good enough to give us a report?

Mr. SAWHILL. On the market yes, I would say it is improving, it is not perfect. We are still conducting sample surveys to try to determine the share particularly of nonbrand independents, but it is improving, and it is going to give us good information in the future.

Chairman HUMPHREY. Now, your report, based on data used by the Lundberg survey—and a similar survey of the member of the Independent Gasoline Managers' Council, in conjunction with the Society of Independent Managers of America—indicated that nonbrand markets had declined.

Mr. SAWHILL. That is right. That is why I suspected the Lundberg data. That is why we went out and are taking our own independent sample, because we have got two different sources of information from two different organizations.

Chairman HUMPHREY. You are supposed to have a report on a monthly basis, is that correct?

Mr. SAWHILL. The sample will be completed by the end of this month.

Chairman HUMPHREY. We have been on this one from time to time.

Mr. SAWHILL. Yes, sir.

Chairman HUMPHREY. Are you going to recommend to the President that he sign the Emergency Allocation Petroleum Act?

Mr. SAWHILL. This is the 4-month extension?

Chairman HUMPHREY. Yes.

Mr. SAWHILL. Yes.

Chairman HUMPHREY. The position of your agency before was opposed to it.

Mr. SAWHILL. Initially we thought that hearings should be held. Once we had a little better understanding of what the situation was, we were convinced that perhaps it was better to get on with the 4-month extension so that we could review it in more detail next spring.

Chairman HUMPHREY. We had quite a time extracting that concession. I had Secretary Simon before the full Joint Economic Committee. Can you imagine what would happen if we do not extend the Allocation Acts in terms of price? Would you like to paint us that gruesome picture, Mr. Sawhill?

Mr. SAWHILL. I don't know how gruesome the picture would be. If supplies could come back onto the market as much as we hope—in some ways the allocation program keeps prices up, and I was trying to explain this to your New England colleagues the other day—we would like to deallocate certain products such as residual fuel oil so that a buyer could buy from any number of different sellers, if there is a surplus in the market, then an outfit ought to be able to buy from either company "A" or company "B." Under the allocation perhaps he is tied to his base supplier, company "A," and the competition can't work to bring that price down.

Chairman HUMPHREY. Couldn't company "A" go out and buy it?

Mr. SAWHILL. Well, the problem is that they could, but what happens is when you get this allocation program, you tend to freeze and do freeze customer/suppliers' relationships, and that tends to keep the price higher than it might be if we took away the strict allocation rules.

Chairman HUMPHREY. What do you think would happen to the price of old oil?

Mr. SAWHILL. It would go up.

Chairman HUMPHREY. It would go up, wouldn't it?

Mr. SAWHILL. Yes.

Chairman HUMPHREY. So you have the international oil, the Arab oil, and the Venezuelan oil staying up to $10 at least, and the domestic oil will shortly get above $5.25. There is only one way to interpret that, that is increased cost for gasoline, distillates, fuel oils, and diesel—you name it.

Mr. SAWHILL. That will bring the price up. My own point was, sure, removing price controls would probably result in an increase in rates. But removing certain allocation controls might actually lead to a lowering in price. I think we have got to seriously consider taking off some of these allocation controls, because they were designed for a period of shortage, and now we are moving into a period of surplus.

Chairman HUMPHREY. Is it not possible under the Emergency Petroleum Allocation Act to do what you are talking about in terms of sort of fine tuning that program?

Mr. SAWHILL. Yes, it is. We are in the process of fine tuning. I just hope that we will understand as we go through this.

Chairman HUMPHREY. Well, we have kept you here quite a while. I have asked about as many of the consumer items as we can.

The main problem that this committee and others had with your Office—and knowing, I think in all fairness, that you came into being under the Federal Energy Office at a time of crisis and severe pressure, so that there were reasons to not be able to answer every request that was made in terms of information—it is a crying shame that the Government of the United States is so weak and so inadequate that it was unable to have information on one of the leading industries of the world, the oil industry. It is one of the great secrets.

Mr. SAWHILL. It is becoming less of a secret. We have established a National Energy Information Center. We have about 350 professionals now. These are good people, too, involved in collecting energy information.

Chairman HUMPHREY. I have an article, that is, a news story that appeared, I think, rather generally. I noticed it here in the Post. It says:

OPEC AIDE TELLS OF BIG OIL SURPLUS

An Arab delegate to a meeting of the Organization of Oil Exporting Countries said yesterday that world oil production is currently running at a surplus of up to 4 million barrels a day.

He confirmed that world oil storage facilities are virtually full in both consuming and producing countries, as well as in tankers on the high seas.

Arthur Burns testified recently before the Joint Economic Committee that it is essential for international prosperity that oil prices fall. William Simon indicated after his recent Mideast trip that he expects them to fall. Many persons have alluded to a sizable buildup of crude oil inventories. Today's Post quotes an OPEC official has indicated a current world production surplus of 4 million barrels per day or about

13 percent of OPEC's total output. In order to support today's energy price levels, OPEC will have to reduce output to the level of demand. Do you sense that oil prices are softening significantly? Are you aware of any orders to cut back production in the OPEC countries?

Mr. SAWHILL. I do. There is no question that spot prices are coming down. There has been a lot of talk about production cutbacks, but as of yet—and I just received the figure before I came up here—there has been no cutbacks that I know of. I reviewed the figures through July for each country.

Chairman HUMPHREY. Hasn't the Oil Minister Yemeni of Saudi Arabia indicated that there should be a cutback in production?

Mr. SAWHILL. Actually he talked about expanding production and holding an auction in order to bring prices down. The countries that have talked about cutbacks in production are Libya, Iran, and Kuwait.

Chairman HUMPHREY. Well, the hour is 12:35. I told you that we would get you out of here, and I think we should. I want to thank you very much for coming. We have posed some questions for you, Mr. Sawhill, and again I think it is helpful to both this committee and your Office that we have these discussions.

Mr. SAWHILL. I do, too. I will do the proper studies that you have asked us to do, and will also report back to you on the dealer-profit situation.

Chairman HUMPHREY. You were pretty severe on Mr. Richardson's testimony. Do you think that he offered us some constructive suggestions?

Mr. SAWHILL. I think there were some constructive suggestions; yes. I just think the manner that he did it in, in releasing it to the press and making a big public relations stunt out of it was really unfair, because I didn't have an opportunity to respond at the time.

Chairman HUMPHREY. We gave you that opportunity today.

Mr. SAWHILL. I appreciate that.

Chairman HUMPHREY. Our main concern is on pricing, profit, production and as a means of bookkeeping adjustment, we have asked for a study that I know burdens your office, but I do think that these are absolutely essential if we are going to know what we are talking about in profits.

Mr. SAWHILL. I do, too.

Chairman HUMPHREY. Can you make any overall forecasts as to the rise of gasoline, diesel fuel, and jet fuel, and so forth? There is no question that these prices will come down if the OPEC countries continue to keep production at the current levels.

Mr. SAWHILL. I would expect some softening in prices. It is a little hard for me to say exactly how much it is going to be. Nobody knows.

Chairman HUMPHREY. I notice that there are some reports that there has been some softening in some areas of the country on retail prices, which I haven't seen much of, but I saw this story here that appeared in the Journal of Commerce, Gasoline Dealer Profit Margins Being Slashed." There have been reports that gasoline prices are softening at retail. Is there any significant sign of softening at wholesale, or will the dealer have to take the difference out of his profit margins? What about other oil products such as heating oil and truck fuel? Do you have any data on that?

Mr. SAWHILL. I have seen similar trends to what you are describing, but I didn't have any specific information at my fingertips.

Chairman HUMPHREY. Any other questions, Senator Metzenbaum?

Senator METZENBAUM. No. Thank you, Mr. Chairman.

Chairman HUMPHREY. Thank you very much, Mr. Sawhill. The subcommittee stands adjourned.

[Whereupon, at 2:40 p.m., the subcommittee adjourned, subject to the call of the Chair.]

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