

108TH CONGRESS
1ST SESSION

S. 1192

To establish a Consumer and Small Business Energy Commission to assess and provide recommendations regarding recent energy price spikes from the perspective of consumers and small businesses.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2003

Mr. DURBIN (for himself and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish a Consumer and Small Business Energy Commission to assess and provide recommendations regarding recent energy price spikes from the perspective of consumers and small businesses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer and Small
5 Business Energy Commission Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) there have been several sharp increases
2 since 1990 in the price of electricity, gasoline, home
3 heating oil, natural gas, and propane in the United
4 States;

5 (2) recent examples of such increases include—

6 (A) unusually high gasoline prices that are
7 at least partly attributable to global politics;

8 (B) electricity price spikes during the Cali-
9 fornia energy crisis of 2001; and

10 (C) the Midwest gasoline price spikes in
11 spring 2001;

12 (3) shifts in energy regulation, including the al-
13 lowance of greater flexibility in competition and
14 trading, have affected price stability and consumers
15 in ways that are not fully understood;

16 (4) price spikes undermine the ability of low-in-
17 come families, the elderly, and small businesses (in-
18 cluding farmers and other agricultural producers) to
19 afford essential energy services and products;

20 (5) energy price spikes can exacerbate a weak
21 economy by creating uncertainties that discourage
22 investment, growth, and other activities that con-
23 tribute to a strong economy;

1 (6) the Department of Energy has determined
2 that the economy would be likely to perform better
3 with stable or predictable energy prices;

4 (7) price spikes can be caused by many factors,
5 including insufficient inventories, supply disruptions,
6 refinery capacity limits, insufficient infrastructure,
7 over-regulation or under-regulation, flawed deregula-
8 tion, excessive consumption, over-reliance on foreign
9 supplies, insufficient research and development of al-
10 ternative energy sources, opportunistic behavior by
11 energy companies, and abuses of market power;

12 (8) consumers and small businesses have few
13 options other than to pay higher energy costs when
14 prices spike, resulting in reduced investment and
15 slower economic growth and job creation;

16 (9) the effect of price spikes, and possible re-
17 sponses to price spikes, on consumers and small
18 businesses should be examined; and

19 (10) studies have examined price spikes of spe-
20 cific energy products in specific contexts or for spe-
21 cific reasons, but no study has examined price spikes
22 comprehensively with a focus on the impacts on con-
23 sumers and small businesses.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

1 (1) COMMISSION.—The term “Commission”
2 means the Consumer and Small Business Energy
3 Commission established by section 4(a).

4 (2) CONSUMER ENERGY PRODUCT.—The term
5 “consumer energy product” means—

6 (A) electricity;

7 (B) gasoline;

8 (C) home heating oil;

9 (D) natural gas; and

10 (E) propane.

11 (3) CONSUMER GROUP FOCUSING ON ENERGY
12 ISSUES.—The term “consumer group focusing on
13 energy issues” means—

14 (A) an organization that is a member of
15 the National Association of State Utility Con-
16 sumer Advocates;

17 (B) a nongovernmental organization rep-
18 resenting the interests of residential energy con-
19 sumers; and

20 (C) a nongovernmental organization that—

21 (i) receives not more than $\frac{1}{4}$ of its
22 funding from energy industries; and

23 (ii) represent the interests of energy
24 consumers.

1 (4) ENERGY CONSUMER.—The term “energy
2 consumer” means an individual or small business
3 that purchases 1 or more consumer energy products.

4 (5) ENERGY INDUSTRY.—The term “energy in-
5 dustry” means for-profit or not-for-profit entities in-
6 volved in the generation, selling, or buying of any
7 energy-producing fuel involved in the production or
8 use of consumer energy products.

9 (6) EXECUTIVE COMMITTEE.—The term “Exec-
10 utive Committee” means the executive committee of
11 the Commission.

12 (7) SMALL BUSINESS.—The term “small busi-
13 ness” has the meaning given the term “small busi-
14 ness concern” in section 3(a) of the Small Business
15 Act (15 U.S.C. 632(a)).

16 **SEC. 4. CONSUMER ENERGY COMMISSION.**

17 (a) ESTABLISHMENT.—There is established a com-
18 mission to be known as the “Consumer and Small Busi-
19 ness Energy Commission”.

20 (b) MEMBERSHIP.—

21 (1) IN GENERAL.—The Commission shall be
22 comprised of 20 members.

23 (2) APPOINTMENTS BY THE SENATE AND
24 HOUSE OF REPRESENTATIVES.—The majority leader
25 and minority leader of the Senate and the Speaker

1 and minority leader of the House of Representatives
2 shall each appoint 4 members, of whom—

3 (A) 2 shall represent consumer groups fo-
4 cusing on energy issues;

5 (B) 1 shall represent small businesses; and

6 (C) 1 shall represent the energy industry.

7 (3) APPOINTMENTS BY THE PRESIDENT.—The
8 President shall appoint 1 member from each of—

9 (A) the Energy Information Administra-
10 tion of the Department of Energy;

11 (B) the Federal Energy Regulatory Com-
12 mission;

13 (C) the Federal Trade Commission; and

14 (D) the Commodities Future Trading
15 Commission.

16 (4) DATE OF APPOINTMENTS.—The appoint-
17 ment of a member of the Commission shall be made
18 not later than 30 days after the date of enactment
19 of this Act.

20 (c) TERM.—A member shall be appointed for the life
21 of the Commission.

22 (d) INITIAL MEETING.—The Commission shall hold
23 the initial meeting of the Commission not later than the
24 earlier of—

1 (1) the date that is 30 days after the date on
2 which all members of the Commission have been ap-
3 pointed; or

4 (2) the date that is 90 days after the date of
5 enactment of this Act, regardless of whether all
6 members have been appointed.

7 (e) CHAIRPERSON AND VICE CHAIRPERSON.—The
8 Commission shall select a Chairperson and Vice Chair-
9 person from among the members of the Commission, ex-
10 cluding the members appointed under subparagraphs (B),
11 (C), and (D) of subsection (b)(3).

12 (f) EXECUTIVE COMMITTEE.—The Commission shall
13 have an executive committee comprised of all members of
14 the Commission except the members appointed under sub-
15 paragraphs (B), (C), and (D) of subsection (b)(3).

16 (g) INFORMATION AND ADMINISTRATIVE EX-
17 PENSES.—The Federal agencies specified in subsection
18 (b)(3) shall provide the Commission such information and
19 pay such administrative expenses as the Commission re-
20 quires to carry out this section, consistent with the re-
21 quirements and guidelines of the Federal Advisory Com-
22 mission Act (5 U.S.C. App.).

23 (h) DUTIES.—

24 (1) STUDY.—

1 (A) IN GENERAL.—The Commission shall
2 conduct a nationwide study of significant price
3 spikes in major United States consumer energy
4 products since 1990.

5 (B) MATTERS TO BE STUDIED BY THE
6 COMMISSION.—In conducting the study, the
7 Commission shall—

8 (i) focus on the causes of the price
9 spikes, including insufficient inventories,
10 supply disruptions, refinery capacity limits,
11 insufficient infrastructure, any over-regula-
12 tion or under-regulation, flawed deregula-
13 tion, excessive consumption, over-reliance
14 on foreign supplies, insufficient research
15 and development of alternative energy
16 sources, opportunistic behavior by energy
17 companies, and abuses of market power;

18 (ii) examine the effects of price spikes
19 on consumers and small businesses;

20 (iii) investigate market concentration,
21 opportunities for misuse of market power,
22 and any other relevant market failures;
23 and

24 (iv) consider—

- 1 (I) proposals for administrative
2 actions to mitigate price spikes affect-
3 ing consumers and small businesses;
4 (II) proposals for legislative ac-
5 tion; and
6 (III) proposals for voluntary ac-
7 tions by energy consumers and the en-
8 ergy industry.

9 (2) REPORT.—Not later than 270 days after
10 the date of enactment of this Act, the Executive
11 Committee shall submit to Congress a report that
12 contains—

13 (A) a detailed statement of the findings
14 and conclusions of the Commission; and

15 (B) recommendations for legislation, ad-
16 ministrative actions, and voluntary actions by
17 energy consumers and the energy industry to
18 protect consumers from future price spikes in
19 consumer energy products, including a rec-
20 ommendation on whether energy consumers
21 need an advocate on energy issues within the
22 Federal Government.

23 (i) TERMINATION.—

1 (1) DEFINITION OF LEGISLATIVE DAY.—In this
2 subsection, the term “legislative day” means a day
3 on which both Houses of Congress are in session.

4 (2) DATE OF TERMINATION.—The Commission
5 shall terminate on the date that is 30 legislative
6 days after the date of submission of the report
7 under subsection (h)(2).

○