AMERICAN PUBLIC GAS ASSOCIATION

January 3, 2018

The Honorable Kevin J. McIntyre, Chairman
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Need for Immediate FERC Action in Response to Corporate Tax Reduction

Dear Chairman McIntyre:

I write on behalf of nearly 1,000 communities that own their own gas system and are paying interstate pipeline rates that now are unjust and unreasonable in light of the significant decrease in the corporate income tax rate now effective under the Tax Cuts and Jobs Act of 2017. The American Public Gas Association (APGA) urges the Commission to act promptly to ensure that the recourse rates paid by customers of natural gas pipelines are reduced to reflect the lower corporate tax rate.

As you know, all pipelines under the Commission's jurisdiction currently recover from ratepayers an income tax allowance that assumes a corporate tax rate of 35%, not the new current 21% rate. Also, all pipelines maintain accumulated deferred income tax (ADIT) accounts are now significantly overfunded because the tax has been collected from ratepayers at 35% but will be paid in the future at 21%. The difference should therefore be returned to ratepayers through further rate reductions. Each pipeline has its own facts of course, but we estimate that the new tax rate should lower firm recourse rates by 5-9%—without question this is a known and measurable change of a "substantial nature."[1]

APGA's members are representative of smaller towns and rural America that almost always obtain natural gas service through maximum recourse interstate pipeline rates. They are the customers most affected by any regulatory hesitation at this time. They lack the wherewithal to bring rate challenges under Section 5 of the Natural Gas Act, so APGA requests the Commission to act now. State commissions are already acting to reduce retail utility rates.

When FERC declined to act universally after the 1986 tax rate change in the interstate pipeline industry, its decision apparently was based upon the belief that tax trackers were then included in the majority of the natural gas pipeline companies' rate settlements.[2] APGA is

---

[1] *National Fuel Gas Supply Corp.*, 51 FERC ¶ 61,122 at n. 55 (1990).

[2] *Electric Utilities; Rate Changes Related to Federal Corporate Income Tax Rates for Public Utilities*, Order No. 475, 52 Fed. Reg. 24,987 (1987). Here, FERC implemented a regulation intended to permit – but not require – certain electric public utilities to adjust their jurisdictional rates to reflect the resulting reduced tax liability. In lieu of filing a full rate case, the utility was allowed to submit an abbreviated rate filing that took into account only the lower tax burden but no other changes since the utility's last rate case.

201 Massachusetts Avenue, NE
Suite C-4
Washington, DC 20002

202.464.2742 (tel)
202.464.0246 (fax)
www.apga.org

unaware of any such trackers in place today with a single exception (Columbia Gas Transmission). Today, in the interests of competition, the Commission should act universally to place all pipeline rates on an equal footing by requiring the use of the current corporate tax rate rates effective now.

APGA believes that in light of the magnitude of the costs involved, the Commission may look past its general reluctance to adjust rates to reflect discrete cost-of-service changes. Not insignificantly, in its 2015 policy statement on modernization costs, the Commission determined that significant governmental initiatives warranted a variance from this general policy.[3] For similar reasons, the major decrease in the corporate tax rate necessitates industry-wide action with respect to this specific cost component of rates.

APGA therefore requests that FERC take immediate action to require all jurisdictional natural gas pipelines to submit compliance filings pursuant to Section 5 of the Natural Gas Act addressing the impacts of the change in the corporate income tax on their recourse rates.

As you are well aware, despite APGA's efforts to change the Natural Gas Act to bring consistency with the Federal Power Act, the Commission lacks refund authority under Section 5. Accordingly, because only prospective rate relief is available under the law, prompt Commission action is necessary to ensure that pipeline customers do not continue to pay inflated rates based on the superseded tax rate any longer than necessary. Thank you for your consideration.

Sincerely,

Bert Kalisch
President and CEO

[3] *Cost Recovery Mechanisms for Modernization of Natural Gas Facilities*, 151 FERC ¶ 61,047 (2015).