UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Accrual of Allowance for Funds Used During Construction	))	**Docket No. AD10-3-000**

MOTION FOR LEAVE TO FILE COMMENTS OUT-OF-TIME AND SUPPLEMENTAL COMMENTS OF THE NATURAL GAS SUPPLY ASSOCIATION

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. §§ 385.212 (2009), and the Commission's notice of technical conference ("Notice of Technical Conference") on its policy regarding the commencement of accrual of Allowance for Funds Used During Construction ("AFUDC") in the above-captioned docket,[1] the Natural Gas Supply Association ("NGSA") hereby submits this motion for leave to file comments out-of-time and supplemental comments.

I. IDENTITY OF NGSA AND COMMUNICATIONS

NGSA represents integrated and independent companies that produce and market domestic natural gas. Established in 1965, NGSA encourages the use of natural gas within a balanced national energy policy, and promotes the benefits of competitive markets to ensure reliable and efficient transportation and delivery of natural gas and to increase the supply of natural gas to U.S. consumers.

[1] *Accrual of Allowance for Funds Used During Construction, et al.*, Notice of Technical Conference on Commission Policy on Commencement of Accrual of Allowance for Funds Used During Construction, Docket Nos. AD10-3-000, et al., (December 2, 2009).

Notices and communications concerning these comments should be addressed as follows:

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II. MOTION FOR LEAVE TO FILE COMMENTS OUT-OF-TIME

On December 2, 2009, the Commission issued the Notice of Technical Conference and on December 29, 2009, NGSA filed its initial post-conference comments ("NGSA's Initial Comments").[2] NGSA respectfully requests that the Commission accept these supplemental comments out-of-time in the above-captioned proceeding. Comments filed by various parties in this proceeding raise issues that NGSA wishes to address in this filing in order to assure a more complete record and aid the Commission in understanding and resolving the issues presented in this proceeding. Additionally, the granting of NGSA's motion will not disrupt the proceeding. Accordingly, NGSA respectfully requests that the Commission grant its motion and accept these comments out-of-time.

III. SUPPLEMENTAL COMMENTS

NGSA appreciates the Commission's careful consideration of the proposed changes to its long-standing policy on AFUDC accruals and asks the Commission to

[2] *Accrual of Allowance for Funds Used During Construction*, Comments of The Natural Gas Supply Association, Docket No. AD10-3-000 (December 29, 2009).

consider our responses to the ideas advanced in the post-conference comments by several pipeline companies. After reviewing the information provided in post-conference comments, NGSA does not believe that pipeline companies have sufficiently demonstrated that the Commission must change its policy to allow AFUDC accruals to begin at an earlier stage than when a certificate application is filed.

First, pipeline companies argue that the advent of the pre-filing process has forced project developers to make a significant portion of their expenditures prior to applying to the Commission for a certificate and that current policy has thereby reduced their ability to raise capital and complete pipeline projects. Yet, the pre-filing process has been heavily relied upon for nearly a decade and, during that time, pipeline development has continued. In fact, according to the Energy Information Administration ("EIA"), more than 4,000 miles of pipelines were completed in 2008, which was an all-time record.[3] EIA projects that the trend is continuing and that in each year after 2008, the pipeline industry will have completed an average of 3,000 miles of pipeline.[4] If pipeline companies were truly hampered by an inability to capture more of the carrying costs for projects, we would expect to see greater evidence of an impact on infrastructure development.

In contrast, the accumulative cost of AFUDC paid by shippers over many years, when such costs are included in a pipeline's rate base, quickly adds up to a significant

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3 *See* ENERGY INFORMATION ADMINISTRATION, OFFICE OF OIL AND GAS, EXPANSION OF THE U.S. NATURAL GAS PIPELINE NETWORK: ADDITIONS IN 2008 AND PROJECTS THROUGH 2011 (September 2009), available at http://www.eia.doe.gov/pub/oil_gas/natural_gas/feature_articles/2009/pipelinenetwork/pipelinenetwork.pdf.

4 *Id.*

impact on shippers; much greater than may be readily apparent. Because shippers often commit to long-term pipeline transportation contracts for as much as ten to twenty years, even a relatively minor increase in a recourse rate adds up to substantial costs to shippers. For instance, El Paso estimates that the change to Ruby Pipeline's recourse rate would be "only" approximately $0.0016 per Mcf if AFUDC accruals were allowed to begin at a date earlier than the date the certificate application was filed.[5] Yet, over a twenty-year period, such a small change could cost the shippers on the 1.5 Bcf per day pipeline an additional $17 million. Seemingly small costs that are permitted to be included in the rate base and collected over the lifetime of the project add up to significant dollars to pipeline shippers.

Moreover, a policy change allowing AFUDC accruals to begin prior to the filing of the certificate application diminishes the currently built-in incentive for pipeline companies to quickly work toward the completion of projects.

If the Commission does decide to change its current policy despite the possible adverse consequences, NGSA asks that the Commission reject the Interstate Natural Gas Association of America's ("INGAA") proposal that recoverable AFUDC accruals be calculated using the Generally Accepted Accounting Principles ("GAAP"), which permit accruals to begin starting on the date that expenditures for a project commence.[6] Specifically, in its comments filed in this proceeding, INGAA stated that:

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[5] *See Accrual of Allowance for Funds Used During Construction*, Comments of El Paso Pipeline Group Following December 15, 2009 Technical Conference, Docket No. AD10-3-000 at 5 (December 28, 2009).

[6] *See Accrual of Allowance for Funds Used During Construction, et al.*, Comments of The Interstate Natural Gas Association of America, Docket No. AD10-3-000, et al., at 1-2 (December 11, 2009) ("INGAA Comments").

INGAA urges the Commission to apply generally accepting accounting standards ("GAAP") – specifically Statement of Financial Accounting Standard No. 34 ("FAS 34," also referred to as Section 835.20, "Capitalization of Interest" under the FASB's Accounting Codification Standards) – in determining when to permit accrual of AFUDC.[7]

While it is understandable that pipeline companies would like to continue to seek ways to minimize their risk, the Commission should recognize and reaffirm that there are fundamental reasons why regulated entities are required to follow standards that provide the necessary controls in a regulatory cost-based environment. The GAAP Statement of Financial Accounting Standard No. 34 is intended for use by unregulated companies which are at risk for any carrying costs incurred, not for regulated pipeline companies which have an entirely different risk profile than unregulated companies.

Moreover, abandoning a certain date for the beginning of AFUDC accruals, such as the certification date, and allowing pipelines to apply a GAAP standard instead, would be a difficult policy to oversee and effectively monitor and would expose shippers to greater risks and cost uncertainty.

NGSA supports pipeline cost recovery related to AFUDC accruals, yet it is imperative that there be clear boundaries set in terms of when interest charges begin to accrue for AFUDC costs. NGSA supports the current practice of accruals beginning at the time a certificate is filed however, at a minimum, the Commission could allow AFUDC accruals to begin not before the pre-filing process begins. If the Commission decides to move to an earlier accrual date such as the pre-filing date, carrying costs should be capped at no more than one year of accruals prior to the filing of the

[7] *Id.* (footnotes omitted).

certificate application. A limitation of one year protects ratepayers from paying carrying costs for projects that are excessively delayed. Allowing AFUDC accruals to begin only when the pre-filing process commences, subject to a one-year restriction, retains a clear, consistent standard and imposes appropriate limitations on the accrual period, providing additional assurance that pipeline projects will move forward on a timely basis.

Still, current policy for AFUDC accruals provides protection to both shippers and consumers without the added burden of needing to fully understand and be prepared to challenge incipient project development costs and timing. The balance struck by the current policy is the right one.

In addition, NGSA asks the Commission to clarify that pipeline companies will not be permitted to "retroactively" calculate interest from the time those costs were incurred. In its initial comments, INGAA stated that:

> *AFUDC should be calculated retroactively on all costs previously included in Account 183.2 for a utility project that is subsequently approved by the Commission or otherwise moves forward as a viable project. This would ensure that the pipelines are not unduly burdened and unfairly absorbing the carrying costs of a project that ultimately benefits the customer.*[8]

The Commission should not allow pipelines to retroactively calculate interest on costs prior to the start of a Commission-approved commencement date for AFUDC accruals, such as the certificate filing date. Account 183.2 is intended to hold "preliminary" expenditures made to determine an infrastructure project's feasibility.

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8 INGAA Comments at 15.

Since there can be long periods of time between determining a projects' feasibility and the time a project is completed, allowing retroactive interest to accrue on expenditures in this account puts shippers at risk for almost unlimited compounding interest.

Finally, as noted in NGSA's Initial Comments, the Commission should require greater transparency from companies developing greenfield pipeline projects.[9] Such companies, which do not already have a Commission-approved capital structure, rate of return on equity and rate for debt reported in their Form 2, should be required to file with the Commission for its approval their interest and equity rates as well as the capital structure that they propose to use in calculating AFUDC carrying costs. In the alternative, the Commission could establish a rebuttable presumption for greenfield projects whereby the capital structure, return on equity, and cost of debt, which are used for the establishment of the pipeline's rates are also used for the calculation of its AFUDC carrying costs. If a pipeline wishes to use a separate methodology for calculating its AFUDC, for example by using a different debt-to-equity ratio or return on equity, then the burden of proof should be on the pipeline to prove that separate factors should be used for the calculation of its underlying rates and its AFUDC costs. Either way, the Commission should ensure that the AFUDC rates are within the zone of reasonableness typically used for pipeline projects and that the accrual rates are transparent to shippers.

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9 *See* NGSA's Initial Comments at 3-4.

IV. CONCLUSION

For the reasons above, the Commission should refrain from making any changes to its policy on AFUDC accrual and should, at the very least, maintain a "bright line" standard for when pipelines may begin to accrue interest on funds used during construction.

Respectfully Submitted,

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