



Dena E. Wiggins
President and CEO

January 17, 2018

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

Re: NGSA Request for Immediate FERC Action Regarding Interstate Pipeline Rates in Response to the Tax Cuts and Jobs Act of 2017

Dear Chairman McIntyre:

On behalf of the Natural Gas Supply Association (NGSA), I am writing to urge the Commission to take immediate action in response to the Tax Cuts and Jobs Act of 2017 (2017 Tax Act). The 2017 Tax Act significantly decreased federal tax liability and, absent Commission action, will necessarily lead to significantly increased pipeline rates of returns. Under the new tax law, many pipeline rates are by definition rendered unjust and unreasonable in light of the fact that current rates include an income tax allowance that no longer reflects the income tax rate that will be paid by the pipeline. We therefore request that the Commission act under its Section 5 authority to require all interstate natural gas pipelines, not subject to moratoriums that restrict rate changes per settlement terms, to reduce their recourse rates to reflect the new tax changes enacted in the 2017 Tax Act. NGSA also supports the American Public Gas Association's January 3, 2018 letter sent to the Commission on this issue and their request for immediate action on pipeline rates.¹

The 2017 Tax Act, effective January 1, 2018, reduces the corporate income tax rate from 35% to 21%. Despite this significant change in federal tax liability, ratepayers will pay pipeline rates that are based on the previous federal income tax rate. This will continue until the Commission takes action and forces pipelines to adjust their rates to reflect the current income tax allowance recently enacted into law. Additionally, accumulated deferred income tax (ADIT) accounts that are provided to all pipelines for future tax liabilities are overfunded under the new tax law. Because pipelines collected the tax from ratepayers at a rate of 35% but will be paying it at a future rate of 21%, the amount in these accounts is no longer just and reasonable. While each pipeline has its own factors impacting its rate base, APGA estimates that the new tax rate should lower firm recourse rates by 5-9%.² NGSA agrees this is substantial and deserves the Commission's immediate attention.

¹ See APGA letter re 'Need for Immediate FERC Action in Response to Corporate Tax Reduction,' submitted January 3, 2018.

² See APGA letter, page 1.

NGSA supports appropriate rates of returns for interstate pipelines in order to incentivize the construction of new pipeline infrastructure. In fact, we have been working shoulder to shoulder with our colleagues in the pipeline community to support their efforts to site new pipeline projects and obtain a certificate authorization from this Commission. We have fought alongside the pipelines in the face of court challenges to their proposals and we will continue to do so. However, NGSA, like other pipeline shipper and customer groups, has a strong interest in ensuring that FERC take action to review pipeline rates when there are new laws or new market conditions that may result in a pipeline substantially exceeding the FERC-approved just and reasonable rate of return. Given the significant decrease in federal tax liability and the subsequent impact it will have on increasing natural gas pipeline returns, FERC action is warranted. Absent immediate FERC action, many interstate pipeline shippers will pay pipeline rates that are unjust and unreasonable.³ Moreover, we urge the Commission to act quickly in light of the fact that the Commission has no ability to order refunds under Section 5 of the Natural Gas Act and any changes only impacts the rates prospectively. Thus, these shippers will be forced to continue to pay unjust and unreasonable rates until new rates are put into place.

The importance of immediate action is further highlighted by 16 states' attorneys general and state agencies calling on the Commission to review retail utility rates under the new tax code to help ensure utility customers do not overpay for electric and gas service. Like these utility customers, natural gas shippers are greatly affected by the tax change and must rely on the Commission to ensure just and reasonable rates. Interstate natural gas pipelines do not have a periodic rate review requirement nor is there a mechanism for a rate decrease outside of a major proceeding contested under Section 5 of the NGA, which is best initiated by FERC when changes in law are implemented.

Unlike when the 1986 tax rate change occurred and the Commission did not require a reduction in pipeline rates because many natural gas pipelines already had tax trackers, this is no longer the case. The Commission now must take affirmative action to remedy this issue raised by the newly enacted tax law. Doing so would ensure all consumers will economically benefit from the reduced federal tax liability.

We urge the Commission to fulfill its statutory obligation under the NGA to ensure pipelines' rates are just and reasonable by requiring all jurisdictional natural gas pipelines, not

³ NGSA's annual Pipeline Cost Recovery Report ("ROE Study") has repeatedly shown that several pipelines already over-earn on their returns under the old income tax rate. Therefore, one can surmise that a steep reduction in the federal tax liability will only magnify the over-recovery by those pipelines and increase the likelihood of over-recovery by those that were on the cusp.

subject to moratoriums that restrict rate changes per settlement terms, to reduce their recourse rates consistent with the new tax law using the Commission's Section 5 authority.

Sincerely,



Dena E. Wiggins
President and CEO
Natural Gas Supply Association

Cc: Commissioner Cheryl LaFleur
Commissioner Neil Chatterjee
Commissioner Robert Powelson
Commissioner Richard Glick

NGSA represents major integrated and independent companies that produce and market approximately one-fourth of the natural gas used in the United States. Established in 1965, NGSA encourages the use of natural gas within a balanced national energy policy, and promotes the benefits of competitive markets, thus encouraging increased supply and the reliable and efficient delivery of natural gas to U.S. customers. www.ngsa.org