



Industrial Energy Consumers of America
The Voice of the Industrial Energy Consumers

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**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL REGULATORY ENERGY COMMISSION**

Cost Recovery Mechanisms for Modernization
of Natural Gas Facilities

Docket No. PL15-1-000

**COMMENTS OF THE
INDUSTRIAL ENERGY CONSUMERS OF AMERICA**

I. EXECUTIVE SUMMARY

IECA strongly opposes surcharges and or trackers as a way for pipeline companies to recover regulatory safety and environmental costs of compliance. It is well documented that many pipelines are already over-recovering and exceeding responsible rates of return in exchange for a monopoly service. There is nothing new or different with recovery of regulatory compliance costs that justify a departure from conventional rate review and considering these costs as part of the tariff.

IECA is also concerned that the FERC proposed cost recovery mechanism for regulatory costs takes the pipeline companies out of their traditional role as a “voice of reason” about the cost and burden of proposed regulations on their shippers. We are concerned that other organizations that might assume the role of advocating affordable regulation on behalf of consumers would have a difficult time developing the detailed understanding of pipeline operations that allow pipeline companies to do so.

FERC already has an existing mechanism to address regulatory cost compliance. As it had done so in times past, FERC should require pipelines to file a rate case at least

every three years. How can the FERC know if the “existing” rates are just and reasonable if it does not do a rate case? IECA encourages the FERC to require pipelines to file a new rate case that will ensure that the existing rate is just and reasonable, and, include the recovery of regulatory compliance costs. Filing a rate case every three years would eliminate the FERC concern that pipelines are at risk for under-recovering their regulatory safety and environmental compliance costs in between rate cases.

Pipeline companies should not receive a return on investment for regulatory compliance costs if recovered through a rider or surcharge as proposed in the FERC policy statement. However, pipelines should be able to recover the specific capital project costs, plus the cost of financing these compliance projects.

II. COMMUNICATIONS

All correspondence and communications to IECA in this docket should be addressed to:

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III. IDENTITY OF THE INDUSTRIAL ENERGY CONSUMERS OF AMERICA

IECA is a nonpartisan association of leading manufacturing companies with \$1.0 trillion in annual sales, over 2,900 facilities nationwide, and with more than 1.4 million employees. It is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic

and world markets. IECA represents energy-intensive trade-exposed (EITE) industry companies. IECA membership represents a diverse set of industries including: chemical, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, brewing, independent oil refining, and cement.

IV. COMMENTS

1. Review of Existing Rates

FERC must first restore “just and reasonable” rates for all pipelines by requiring that pipelines file cases to update their tariffs every three years. Doing so will restore confidence in the ratemaking system whose purpose is to protect shippers from monopoly rents. IECA encourages the FERC to require an existing rate review and incorporate the cost recovery of regulatory compliance costs into the review.

2. Eligible Facilities

IECA opposes surcharges and or trackers as a way for pipeline companies to recover regulatory safety and environmental costs of compliance. Instead, IECA supports FERC action to require pipeline companies to file for a new tariff that includes these regulatory costs. In the event that FERC pursues a surcharge or tracker, IECA offers the following comments and recommendations regarding eligible facilities.

We agree that FERC must “condition” the pipeline cost recovery to ensure that rates are just and reasonable to protect natural gas consumers from excessive costs and to ensure that only costs directly associated with safety and environmental compliance are included. The FERC should provide strict guidelines on what costs are eligible for this special cost recovery.

For example, FERC should only allow cost recovery in trackers for compliance costs from laws that have already been enacted and the final regulations have already been published in the federal register. And, FERC should only allow cost recovery for compliance costs already incurred.

IECA agrees with FERC that pipelines need to demonstrate that the costs go beyond ordinary capital investment in a pipeline's existing system and in existing rates for maintenance purposes. In the event that FERC allows a pipeline to file for recovery in advance of having incurred the cost, the pipeline should specifically identify in its proposal the projects eligible for recovery, the facilities to be upgraded or installed by those projects, and an upper limit on the capital costs related to each project to be included in the tariff.

The costs of compliance should be allocated and paid for by all users of the pipeline over a fixed period of time, such as five years. This includes both firm and interruptible users. Holders of firm capacity release packages should be the entity responsible for paying for any tracker, not the primary shipper who released the capacity. All costs that are over-recovered should be refunded to all shippers utilizing capacity on a pipeline's system. This would include firm, interruptible and capacity release shippers.

IECA has the following observations about the FERC description of the Columbia Gas rate agreement.

- a. The FERC should not use its decisions related to Columbia Gas as a framework for this proposal. Settlements between the pipeline and their shippers, and the negotiations behind them, can vary greatly from pipeline to pipeline. It is very important for FERC to understand that industrials are rarely consulted with by the

- pipelines, so the so-called outreach programs between the pipelines and shippers are not adequate, and not really transparent or inclusive.
- b. Consumers deserve a consistent and transparent approach to addressing cost recovery of regulatory compliance that would be applicable to all interstate natural gas pipelines. Outcomes that are related to pipeline negotiations and settlements are not a responsible approach for surcharge determinations or outcomes or for setting precedent for the development of this policy statement.
 - c. Costs associated with incentives for innovation and efficiency should not be paid for by shippers. Improved pipeline operation and efficiency reduces the pipeline's cost of doing business, increases throughput on the pipeline and therefore increases their profitability. The cost savings are not passed onto shippers, thus shippers should not be required to pay for them. This docket should only address recovery of "regulatory compliance costs," not improving innovation and efficiency.

Questions Posed By FERC

IECA opposes surcharges and or trackers as a way for pipeline companies to recover regulatory safety and environmental costs of compliance. Instead, IECA supports FERC action to require pipeline companies to file for a new tariff that includes these regulatory costs. In the event that FERC pursues a surcharge or tracker, IECA has addressed the questions that FERC has proposed below.

FERC Question: Should the cost of modification to compressors for the purpose of waste heat recovery be eligible for recovery under a modernization surcharge?

Answer: No. If it is not a regulatory compliance requirement, it should not be included. Capital expenditures like waste heat recovery will potentially financially benefit

the pipeline and those benefits are not passed onto shippers. If the pipeline benefits, they should pay for it.

FERC Question: This proposed policy statement would limit the capital costs eligible for recovery through the surcharge to costs incurred to modify the pipeline's existing system. However, the Commission requests comment on whether there are any capital costs associated with the expansion of the pipeline's existing capacity or its extension to serve new markets that may reasonably be included in the surcharge as necessary one-time capital expenditures to comply with safety and environmental regulations.

Answer: No. It is entirely inappropriate to include the costs associated with pipeline extensions into new markets in any tracker. The Commission has a well established methodology on how pipelines can provide additional capacity and recover the costs of those improvements on their systems. The methodology includes the pipelines securing long-term firm contracts with shippers who will subscribe to utilize the incremental capacity via long-term firm contracts. Once the requisite number of new shippers sign up for the incremental capacity, the pipeline should include, the safety and environmental costs for compliance in the pipeline case requesting a Certificate of need and Necessity or a permit from the FERC to begin construction.

FERC Question: Should capital costs incurred to minimize pipeline facility emissions be considered for inclusion in the surcharge, even if those are not expressly required to comply with environmental regulations?

Answer: No. Costs associated only with safety and environmental compliance required by federal law, should be included.

FERC Question: Should non-capital maintenance costs associated with environmentally sound operation of a compressor be considered for inclusion in the surcharge?

Answer: No. These are expenses that are embedded in existing tariffs already.

FERC Question: Under what circumstances should the Commission permit a pipeline to include in the tracking mechanism the cost of additional projects not identified in the pipeline's original filing to establish the tracking mechanism?

Answer: The pipeline should include such projects for consideration of recovery when it files for its next rate case or when the pipeline seeks to continue the tracker after the initial five year period is up for renewal.

3. Avoid Cost Shifts

FERC correctly points to two potential problems – that pipelines are at risk for cost under-recovery between rate cases, and that shippers must be protected from significant cost shifts. The solution for both is the same. FERC should require pipelines to file a new rate case that addresses existing just and reasonable costs, and recovery of safety and environmental regulatory compliance costs, and that properly allocates costs to customers based on a historic test year amount of services provided on the pipeline. Do not use surcharges and establish “floors” and “ceilings” that are sure to fail and result in either over-collecting costs or under-collecting costs. Conventional FERC ratemaking methodology should be employed to ensure holistic just and reasonable rates.

Industrial consumers are very wary of trackers and the very significant cost increases from them. States have imposed trackers such that the costs recovered through the tracker exceed the amount of the utility's base rate. To avoid this problem, costs

recovered through a tracker should be limited to no more than 5 percent of the costs recovered through the pipeline's tariff.

4. Periodic Review of Surcharge

Here again, conventional rate review by FERC is the best way forward, not surcharges. If surcharges are used, automatically reviewing the surcharge rate a minimum of every five years is appropriate. It is also appropriate, as was suggested in the policy statement to require pipelines to file a case if they want to continue a tracker.

5. Shipper Support

The FERC, in support of its proposal to use a surcharge, is expecting any pipeline seeking approval of a pipeline surcharge to work collaboratively with its shippers to seek support for the pipeline's proposal. IECA's response is that this is completely unrealistic. Even though industrials consume 29 percent of the U.S. natural gas, we are rarely contacted by pipelines. Industrials would very much be interested in talking with pipelines. We do not expect that to change. Importantly, "seeking" support does not mean "obtaining" support.

If FERC does pursue a surcharge, IECA strongly encourages FERC to require pipelines to announce a series of public meetings to discuss the pipeline surcharge proposal, having invited all of its shippers by mail. A FERC representative should be required to be in attendance to ensure factual details on the surcharge will be divulged.

- Accelerated Amortization: IECA supports accelerated amortization for safety and environmental compliance costs, but a surcharge or tracker is not needed to do so. If a tracker is used, it is important for the amortization to be set at a rate that would require the pipeline to come back for a rate case in five years.

- Reservation charge credits: IECA does not support changes to the existing reservation charge credits. Doing so would create a disincentive to ensure reliability. If there are supply problems, pipelines need to develop alternative solutions for shippers.

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Respectfully Submitted,

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President
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