



Industrial Energy Consumers of America

The Voice of the Industrial Energy Consumers

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March 29, 2018

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural
Resources
U.S. Senate
Washington, DC 20510

The Honorable Greg Walden
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural
Resources
U.S. Senate
Washington, DC 20510

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Re: Manufacturers Urge Congress to Provide FERC Retroactive Refund Authority When Consumers Have Been Charged Interstate Pipeline Rates that are Not Just and Reasonable – Section 5 of the Natural Gas Act

Because Congress has not granted the Federal Energy Regulatory Commission (FERC) the authority to require retroactive refunds associated with interstate natural gas pipeline rate over-charges which are not just and reasonable, there will not be any immediate rate reduction benefits to natural gas consumers due to the passage of the Tax Cuts and Jobs Act of 2017. As the Committee considers comprehensive energy legislation, we urge you to address Section 5 of the Natural Gas Act and provide natural gas consumers with the same refund authority that currently exists for electric consumers.

On the electric side, Congress in 1988 passed and President Reagan signed into law the Regulatory Fairness Act. This law, among other things, amended Section 206 of the Federal Power Act (FPA) and gave FERC the authority to provide refunds back to the date of the filing of a complaint against an electric transmission provider if it had been found by the FERC to have charged an unjust and unreasonable rate. Refunds are only paid to customers if electric utilities have been found by the FERC to have charged beyond a just and reasonable rate, and such refunds only relate to overcharges from and after the date of the complaint.

With regard to the regulated rates of interstate natural gas pipelines, these pipelines maintain accumulated deferred income tax (ADIT) accounts that are now significantly overfunded because the tax has been collected from ratepayers at 35% but will be paid in the future at 21%. And, while the Commission has recently issued an order at its March 15 meeting addressing this issue, consumers will still have missed out on the impact of lower taxes and will have been overcharged hundreds of millions of dollars. This is because under the Natural Gas Act, FERC can only act prospectively to lower unjust and unreasonable rates. Each month that passes means that consumers fail to see the benefit of the new lower corporate tax rate in their natural gas rates.

Under Section 5 of the Natural Gas Act, if a customer has evidence of being charged beyond a just and reasonable rate, and successfully completes a complaint proceeding that typically could cost of hundreds of thousands of dollars, FERC may only rule that a rate reduction takes effect prospectively after FERC's order is issued, with no means of refunding the affected customer. This prospective rate reduction with no refund authority means the pipelines have a strong incentive to delay the proceeding ad infinitum (since no refunds can be ordered under NGA Section 5 during the interim even if the pipelines are determined at the end of the day to have overcharged their customers).

This is a bipartisan issue that all members of Congress should support. We look forward to working with you on this important matter.

Sincerely,

Paul N. Cicio
President

cc: Senate Committee on Energy and Natural Resources
House Committee on Energy and Commerce
FERC Chairman Kevin J. McIntyre
FERC Commissioner Cheryl A. LaFleur
FERC Commissioner Neil Chatterjee
FERC Commissioner Robert F. Powelson
FERC Commissioner Richard Glick

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with \$1.0 trillion in annual sales, over 3,400 facilities nationwide, and with more than 1.7 million employees worldwide. 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 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.