

March 28, 2013

The Honorable Ron Wyden
Chairman
Senate Energy Committee
304 Dirksen Senate Building
Washington, DC 20510

The Honorable Lisa Murkowski
Ranking Member
Senate Energy Committee
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Wyden and Ranking Member Murkowski,

We the undersigned organizations support reform of Section 5 of the Natural Gas Act (NGA) and sincerely appreciate your recent letter to the Federal Energy Regulatory Commission (FERC) regarding its consumer protection authorities under the NGA. We respectfully request that you hold a committee hearing as a next step on this critical issue. As you are well aware, in spite of the historically low commodity price of natural gas, many consumers of natural gas from industrial enterprises to individual homeowners continue to pay unjust and unreasonable rates for the transportation of natural gas through interstate pipelines.

Gas consumers have limited protection from the imposition of unjust and unreasonable rates by pipelines because under the complaint section of the NGA Section 5, the Commission can only change rates prospectively at the end of a proceeding, with no refunds for past overcharges. In contrast, under the complaint section of the Federal Power Act (FPA), Section 206, the FERC is authorized to order refunds of rates determined to be unjust and unreasonable from and after the date a complaint is filed. The practical effect of this statutory inequity is that pipeline customers are overcharged by billions of dollars.

The evidence for this widespread overcharging comes from a 2013 study from the Natural Gas Supply Association that analyzes the FERC-filed annual reports of 32 of the nation's pipelines (80% of the market). This study found approximately \$3.4 billion in demonstrated overcharges from pipelines from 2007-2011. Some pipelines averaged over 22% percent equity returns over 5 years when 10-13 percent is most often considered just and reasonable by the FERC.

It is unsurprising that pipelines resist efforts to reform Section 5 given the strong financial incentive which exists for them to maintain the status quo. However, it is noteworthy that only the pipelines resist NGA Section 5 reform, and not surprisingly their arguments against such reform do not withstand scrutiny. They argue, among other things, that change that protects consumers from paying unjust and unreasonable rates would somehow mean less infrastructure investment; this is a total non-sequitur since there is no correlation between the pipelines that are over-recovering and the pipelines that are constructing infrastructure. There is absolutely no evidence that the enforcement of the NGA mandate that pipelines only charge just and reasonable rates would adversely affect pipelines' ability to attract capital or to otherwise conduct their business.

It is more important than ever, given the increased role of natural gas in this nation's energy portfolio that the statutory requirement that interstate pipeline rates be just and reasonable and be

enforceable by the agency charged with protecting consumers. This will help keep dollars in the pockets of homeowners and businesses where they belong. We believe a hearing on this important issue will highlight the inequities in the current treatment of natural gas consumers under Section 5 of the NGA and will help continue a dialogue on this important issue. Thank you for your help on this important issue facing consumers around the country.

Sincerely,

American Public Gas Association

American Forest & Paper Association

American Public Power Association

Carolinas Public Gas Association

Consumer Federation of America

Industrial Energy Consumers of America

Louisiana Municipal Gas Authority

Process Gas Consumers Group