



The Honorable G.K. Butterfield
2080 Rayburn House Office Building
Washington, DC, 20515

The Honorable Billy Long
2454 Rayburn House Office Building
Washington, DC, 20515

January 30, 2020

Dear Congressman Butterfield and Long:

We, the undersigned organizations, write in support of the Protecting Natural Gas Consumers from Overcharges Act of 2020. This legislation would bring about much needed reform to the Natural Gas Act (NGA) and we commend your efforts.

The NGA establishes the Federal Energy Regulatory Commission's (FERC) role in regulating gas utilities and is intended to be a parallel statute to the Federal Power Act (FPA), which regulates electric utilities. Both laws outline regulatory processes for over-collections (also referred to as overcharges) that interstate transmission entities charge to distribution companies, shippers, and consumers. FERC has the authority to determine whether transmission entities, namely interstate natural gas pipelines and electric companies, have charged an "unjust and unreasonable rate."

Under section 206 of the FPA, FERC or an electric transmission customer can file a rate complaint. If FERC finds that an electric transmission entity has charged an "unjust and unreasonable" rate, then FERC may order that the entity refund overcharged funds based on a Refund Effective Date set by FERC when it issues notice of the complaint.

The NGA offers no such recourse. Under section 5 of the NGA, entities that believe they have been overcharged can still file a complaint against an interstate natural gas pipeline. However, under section 5 FERC only has authority to grant prospective rate relief – it cannot order refunds of over-collections, unlike the refunds that are available under section 206 of the FPA. Natural gas transmission customers thus are not able to recoup monies that are determined to be unjustly collected. This creates an incentive for interstate natural gas pipelines to prolong such cases because they are able to keep all of the overcharged monies. Closing this loophole will set the proper incentive for pipelines to resolve section 5 proceedings more quickly.

The impact of this inconsistency with section 5 was seen most starkly after passage of the Tax Cuts and Jobs Act (TCJA), which lowered the corporate tax rate from 35 to 21 percent. Many state commissions required their local distribution companies to flow through the tax refunds immediately. Conversely, FERC pipeline section 5 proceedings were scheduled to take 47 weeks to reach initial decisions and much longer to get to final decisions. FERC-regulated pipelines were over-recovering their rates during the time period since the tax reductions



billion per year paid by consumers, including local distribution customers and their ratepayers, industrials, manufacturers, and electric power utilities.

This bill would reform the NGA to allow FERC to order refunds in section 5 rate cases. This ensures that the NGA functions as it is intended – to allow FERC appropriate authority to remedy overcharges with refund authority similar to the refund authority provided to FERC under the FPA. Not only will this ensure consumers have proper recourse to recoup overcharged funds, but it also brings the NGA in line with the FPA and fairness to all energy consumers.

We thank you for your efforts and strongly encourage Congress to pass this long overdue and much-needed legislation.

Sincerely,

American Public Gas Association

American Forest and Paper Association

American Public Power Association

ArcelorMittal

Cargill

Eastman Chemical

Industrial Energy Consumers of America

National Rural Electric Cooperative Association (NRECA)

Natural Gas Supply Association

Nutrien

went into effect in January 2018. The result is estimated excessive charges of over \$1