APGA Sends Letter Addressing Testimony on User Fees

APGA sent a letter on July 21 to Chairman Ed Whitfield (R-Ky.) and Ranking Member Rush (D-Ill.) of the House Energy and Power Subcommittee to correct the record on user fees in response to the Interstate Natural Gas Association of America’s (INGAA) testimony on the subject at the July 14 oversight hearing on pipeline safety.

As originally established, user fees for funding the Pipeline and Hazardous Material Safety Administration (PHMSA) are to be collected by natural gas transmission operators from their downstream customers. This has been the approach used since the inception of PHMSA user fees, and it has worked well since it minimizes the points of contact between the government and those from which it is collecting the user fees. These user fees are treated by the Federal Energy Regulatory Commission (FERC) as part of the transmission operators’ legitimate cost of service and hence are includible in the transmission operators’ rates.

APGA’s letter identifies three mischaracterizations that were included in INGAA’s testimony and refutes them. Specifically:

1. A claim that the Department of Transportation (DOT)/PHMSA is engaged in “advocacy” for a change in the user fee structure. There is no public statement from DOT/PHMSA to support such a claim.
2. A claim that DOT/PHMSA supports any change in the current user fee structure. PHMSA's position on the current user fee structure has not changed from the position communicated in a letter sent to Congress in 2008 in which PHMSA expressly supports the current user fee structure. Such an unsupported claim may give Congress the false impression that DOT is supportive of a change in the current user fee structure.
3. A claim that a large block of “users” are not paying the user fee. Interstate pipelines "pay" the user fee in a manner identical to how K-Mart "pays" the sales tax. K-Mart "collects" the sales tax from the customer in the transaction in a manner identical to how an INGAA member "collects" the user fee from its customers as part of the Federal Energy Regulatory Committee-approved rate that includes the user fee. We are very concerned about the impression such a distorted characterization would make on members of the committee if this claim were to be left unchecked.

APGA’s letter concludes that Congress should not alter an efficient and equitable user fee system based on the misrepresentations of INGAA’s testimony. If you have any questions on this article, please contact Scott Morrison of APGA’s staff by email at smorrison@apga.org by phone at 202-464-2742.