

August 23, 2011

Honorable Fred Upton  
Chairman  
House Energy and Commerce Committee  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Upton:

On behalf of the American Public Gas Association and Industrial Energy Consumers of America, we express our strong opposition to any provision as part of pipeline safety legislation that would permit pipelines to bypass the Natural Gas Act just and reasonable standard through a tracker mechanism. The "tracker" approach is unsound both because it virtually guarantees double recovery of user fees by pipelines and double payment of such fees by customers and because it permits pipelines that are already over-recovering their cost of service to nevertheless pass on such user fees without having their rates scrutinized by the agency charged with ensuring that pipeline rates are just and reasonable, the Federal Energy Regulatory Commission (FERC).

As originally established, user fees for funding Pipeline Hazardous Materials and 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 FERC as part of the transmission operators' legitimate cost of service and hence includible in the transmission operators' rates.

The FERC has never turned down a request to include pipeline safety user fees in transportation rates charged by interstate pipelines, so the *only* risk to the pipelines is that, despite being permitted to include the PHMSA user fees as a legitimate operation and maintenance cost, their rates will be reduced because they are otherwise over-recovering their overall just and reasonable cost of service. Such pipelines should not be permitted to "track" costs that simply ensure their continuing over-recovery. Pipelines should continue to have the same choice they have today: either file to pass through the PHMSA user fee (for which there is guaranteed pass-through) or stay at home in recognition that they are already collecting the user fee many times over in rates that are excessive under the Natural Gas Act just and reasonable standard.

The double dipping occurs because the tracker mechanism would be implemented automatically without requiring a pipeline to adjust its cost of service (and rates) to reflect the removal of the fees included in the rates that are to be tracked in the future. Thus, for example, if the PHMSA user fee currently has X dollars in it for non-transmission expenses, the pipeline, in addition to being permitted to track the X dollars on a go-forward basis, would also continue collecting the X dollars in its cost of service. Clearly, this is unfair and points out why trackers should never be implemented absent a

rate case in which pipelines are required to remove the dollars from its base rates that it seeks to track.

This tracker proposal would further increase natural gas consumer costs in an economic climate in which many have struggled. We strongly urge you to oppose a tracker proposal as part of pipeline safety reauthorization.

Sincerely,



**American Public  
Gas Association**

The American Public Gas Association



The Industrial Energy Consumers of America