



## Weekly Update November 24, 2010

### **APGA and other Associations File Petition at FERC Urging Clarification by Rulemaking Regarding Pipeline Refunds during Outages and Force Majeure Events**

On November 17<sup>th</sup>, the American Public Gas Association (APGA) and four other associations filed a petition at FERC asking the Commission to use its authority to enforce its policy regarding pipeline crediting during outages and order pipelines to amend their tariffs in accordance with Commission policy. The other associations that signed the petition were: The Process Gas Consumers Group; the Natural Gas Supply Association; the Independent Petroleum Association of America; and the American Forest & Paper Association.

In its petition, APGA and the other associations state that the Commission has established very clear policies requiring pipelines to credit shippers in the event that pipeline service is interrupted – whether for *force majeure* or other reasons. A survey of 33 pipeline tariffs demonstrated that most pipelines did not have fully conforming tariff provisions; in fact, a number of pipelines provide for no credits. The petition further states that lack of conformance with FERC's outage credit policy has created and continues to create unnecessary conflicts between pipelines and shippers. The petition also requests that the Commission ensure that pipeline tariffs include a *force majeure* definition that is not overly broad.

A copy of the petition, as well as the press release that accompanied the petition, is available on the APGA website at [www.apga.org](http://www.apga.org). If you have any questions on this article, please contact Dave Schryver of APGA's staff by phone at 202-464-2742 or by email at [dschryver@apga.org](mailto:dschryver@apga.org).

### **PHMSA Submits Mechanical Fitting Failure Reporting Form For OMB Approval**

Recently the Pipeline and Hazardous Materials Safety Administration (PHMSA) submitted revised distribution annual report forms (Form 7100.1-1) to the Office of Management and Budget (OMB) for approval. Section 192.1009 of the DIMP rule currently requires that each operator report, on an annual basis, information related to failure of compression couplings, excluding those that result only in non-hazardous leaks, as part of the annual report. When it published the final DIMP rule on December 4, 2009 PHMSA asked for public comment on this requirement. APGA suggested a number of changes to clarify some of the reporting requirements. PHMSA has yet to issue a final rule, but, based on the submission to OMB, it appears the rule will be amended to require reporting of all hazardous leaks on mechanical fittings rather than compression couplings and rather than be part of the annual report will be a separate Form 7100.1-2. Hazardous leak means a leak that represents an existing or probable hazard to persons or property and requires immediate repair or continuous action until the conditions are no longer hazardous. Minor fitting leaks, whether repaired or monitored, need not be reported on the new form, but, if repaired, would continue to be reported on the Distribution Annual Report Form 7100.1-1.

For each hazardous leak on a mechanical fitting, operators will be required to submit the following information via PHMSA's on-line reporting system:

- Mechanical Fitting Involved (e.g. Stab, Nut Follower, Bolted or Other Compression Type Fitting)

- Type of Mechanical Fitting (e.g. Service or Main Tee, Tapping Tee, Transition Fitting, Coupling, Riser, Adapter, Valve, Sleeve, End Cap or Other)
- Leak Location: (e.g. Above or below ground; Inside or Outside; Main-to-Main, Main-to-Service, Service-to-Service or Meter Set)
- Year Manufactured and year installed
- Manufacturer, Part or Model Number, Lot Number and Other Attributes known to the operator
- Fitting Material
- Nominal size and material of the two pipes being joined by the fitting
- Apparent Cause of Leak (e.g. Corrosion, Excavation, etc.)
- How did the leak occur? (e.g. Leaked Through Seal, Leaked Through Body or Pulled Out)

Reports can be submitted throughout the year or in one submission for each calendar year due March 15 following the end of the reporting year. Copies of the forms can be found at [www.apga.org](http://www.apga.org). For further information contact John Erickson, APGA Vice President, Operations (202-464-2742, ext 1002 or [jerickson@apga.org](mailto:jerickson@apga.org)).

### **FERC Initiating Section 5 Proceedings Against Three Pipelines**

At the November 19<sup>th</sup> Open Meeting of the Federal Energy Regulatory Commission (FERC), the Commission unanimously approved initiating Section 5 proceedings against three pipelines to determine if those pipelines are charging unjust and unreasonable rates. Based on the Form 2 data the pipelines are required to submit to FERC, the Commission has determined that Northern Natural Gas Company, Great Lakes Gas Transmission LP, and Natural Gas Pipeline Company of America LLC, may be substantially over-recovering beyond a just and reasonable rate as mandated under the Natural Gas Act. In determining the pipelines that it would institute a Section 5 filing against, in addition to the Form 2 data the Commission considered the costs and risks of litigation, the level of infrastructure investments, and the existence of a rate moratorium or come-back provision. In a statement that accompanied the announcement, Chairman Wellinghoff communicated that “Because the Commission lacks refund authority under section 5, it is appropriate to expedite resolution of these proceedings.” The Commission has directed that an initial decision be issued within 47 weeks of the designation of a presiding judge.

APGA released a statement commending the Commission for its decision to initiate Section 5 proceedings. APGA further communicated that the current regulatory process to ensure just and reasonable rates under the Natural Gas Act is broken. It favors regulated pipeline monopolies over consumers by allowing them to keep overcharges collected after a Section 5 proceeding is initiated (whether by complaint or by Commission action) rather than giving consumers their money back if the rates are shown to be excessive. APGA urged Congress to correct this inequity by passing legislation, such as of S. 672 – The Natural Gas and Electricity Review and Enforcement Act introduced by Senator Cantwell, that would allow the Commission to set a refund-effective date commensurate with the date on which the Commission initiates a Section 5 proceeding or on which a consumer complaint is filed under Section 5, and allow the Commission to treat regulated pipelines just as it currently treats electric utilities under the Federal Power Act.

A copy of APGA’s press release is available on the APGA website at [www.apga.org](http://www.apga.org). If you have any questions on this article, please contact Dave Schryver of APGA’s staff by phone at 202-464-2742 or by email at [dschryver@apga.org](mailto:dschryver@apga.org).