



Weekly Update December 31, 2009

APGA Expresses Appreciation to Commissioner Kelly

On December 18, Bert Kalisch, APGA's President & CEO, and Dave Schryver, APGA's Executive Vice President, met with Commissioner Suede Kelly of the Federal Energy Regulatory Commission (FERC) to express appreciation for her efforts on behalf of natural gas consumers. Commissioner Kelly was appointed to the Commission in 2003. She was re-nominated by President Obama to a third-term earlier this year but later withdrew her name for consideration. As a result, Commissioner Kelly's term will expire when Congress adjourns in 2009.

In the meeting with Commissioner Kelly, APGA presented her with a letter of appreciation for her efforts on behalf of natural gas consumers during her service as a Commissioner. The letter specifically cited the Commissioner's support "for increased transparency and amending the Natural Gas Act to allow the Commission to set a refund-effective date commensurate with the date on which a Section 5 complaint is filed" as just a few examples of her efforts on behalf of natural gas consumers.

The President has yet to nominate a replacement to fill the seat that will be vacated by Commissioner Kelly. A copy of APGA's letter of appreciation is available on the APGA website at 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.

APGA Holds Government Relations Conference Call

On December 17th, APGA held its Annual Government Relations Audio Call. The conference call, which is open to all APGA members, provides up-to-date information about legislative and regulatory issues that directly affect public gas systems. The call was chaired by Kathy Garcia, Manager for Federal and State Relations for CPS Energy and Vice-Chair of the APGA Legislative Subcommittee. Approximately 50 APGA member systems participated in the call.

The call began with a legislative update. Kathy Garcia provided an overview of climate change and energy legislation. Dave Schryver and Nate Hill of APGA's staff provided an update of legislation that will impact regulation of the over-the-counter derivatives market and how public gas systems hedge. They also discussed natural gas vehicles, reauthorization of the Pipeline Safety Act and funding of the Low-Income Home Energy Assistance Program (LIHEAP). Bud Miller, APGA's General Counsel, provided an overview of several regulatory matters that APGA has been involved in at the Federal Energy Regulatory Commission, including the Commission's recent initiation of Section 5 proceedings against three pipelines. Bud also discussed recent meetings that APGA Board Members had with the FERC Commissioners.

Participants were also updated on some of the legislative and regulatory items APGA anticipates working on in 2010. If you would like more information on this call, please contact Dave Schryver at APGA by email at dschryver@apga.org or by phone at 202-464-2742.

Congress Set to Finish 2009 Legislative Business

Congressional leadership is plotting a strategy to finish legislative business in both chambers and begin the Christmas recess by December 24. The only must-pass bill remaining for the first half of the 111th Congress is the 2010 Defense Appropriations bill that funds military operations including the wars in both Iraq and Afghanistan. Senate leaders may elect to keep the Senate in session longer than the House of Representatives in an effort to pass Healthcare reform legislation, although they do have the option to wait until January to finish work on that particular bill. The House passed their version of healthcare reform in November. One session of Congress runs two years. Lawmakers will most likely return for the second session around the time of the President's State of the Union address in late January.

Stimulus

The American Recovery and Reinvestment Act (ARRA) was the first major piece of legislation Congress passed in 2009. Signed into law in February, the bill authorized approximately \$787 billion in tax credits and direct spending intended to stimulate economic activity and create jobs. The bill allocated approximately \$43 billion in tax credits and direct spending for energy-related projects. A large portion of the spending on energy related projects went towards increasing energy efficiency, renewable energy and upgrades of the electrical transmission system. Many of the tax provisions focus on longer-term extensions of existing renewable energy tax credits for wind, solar, geothermal and others. Large portions of the direct spending also went to the Department of Energy's Weatherization and State Energy Programs. For up to date information on ARRA spending visit www.recovery.gov.

Climate Change

Throughout the spring, the House Energy & Commerce Committee worked to put together energy and climate change legislation entitled the American Clean Energy Security Act (ACES). Committee Chairman Henry Waxman and Energy & Environment Subcommittee Chairman Ed Markey co-authored the ACES legislation (H.R. 2454). On May 21, the committee voted 33-25 to pass the ACES legislation that seeks to reduce domestic greenhouse gas emissions 3% below 2005 emissions levels in 2012, 20% below 2005 emission levels in 2020 and increasing to an 83% reduction below 2005 emission levels in 2050. The cap within the bill requires natural gas LDCs that emit more than 25,000 metric tons of CO₂ equivalent per year to hold and manage permits for their customers to comply with the U.S. Environmental Protection Agency (EPA). Approximately 160 public gas systems would have to comply with the cap and trade program. The cap would not apply to natural gas LDC's until 2016. Also, 9% of free allowances are set aside for natural gas LDCs. On June 26, 2009 the full House of Representatives voted 219 to 212 to pass H.R. 2454 (ACES) to be the first-ever chamber of Congress to pass a bill to regulate greenhouse gas emissions. The legislation is now before the U.S. Senate which plans to take up the bill in the spring.

NGA Section 5 and Supply

Beginning in May, The Senate Energy & Natural Resources Committee began putting together an energy bill including a renewable electricity standard and controversial provisions to open additional federally-restricted areas in the Gulf of Mexico for oil and gas exploration and production. APGA pushed to include language in the bill that would amend Section 5 of the Natural Gas Act. However, on June 16th, the committee voted 11-12 to reject an amendment offered Senator Maria Cantwell that would have modified Natural Gas Act Section 5 to provide the Federal Energy Regulatory Commission (FERC) with the authority to grant refunds to consumers that are paying unjust and unreasonable pipeline rates. S. 1462 entitled the American Clean Energy Leadership Act (ACELA) passed committee on July 17. Senator Cantwell has indicated that she remains committed to pushing NGA Section 5 legislation on the Senate

floor when the full Senate takes up the energy bill.

Market Transparency

The House Financial Services and Agriculture Committees began working in the fall on regulations to overhaul the U.S. financial markets including the use of over-the-counter (OTC) derivative products that some public gas systems use to hedge gas supply for their consumers. While APGA has been a supporter of additional market transparency since 2005, many proposals in Congress to regulate OTC markets would increase costs on public gas systems by mandating their hedging or prepay transactions to be cleared or exchange-traded. The mandated clearing of all OTC transactions would require public gas systems to post margin and to meet potential margin calls. In the case of a standard exchange (NYMEX) traded natural gas contract, the initial margin collateral posted at inception is approximately \$5,000 per contract (10,000 MMBtu).

APGA was asked twice this year by Congress to testify on this issue. First, Dave Schryver of APGA's staff testified in September before the House Agriculture Committee. Second, Jeff Billings with the Municipal Gas Authority of Georgia testified before the Senate Agriculture Committee in November. APGA expressed to lawmakers that a municipality's OTC transactions should be exempted from regulation for two main reasons: first, public gas systems transactions do not pose systemic risk to the U.S. financial system; and second, public gas systems often don't have the resources to post the collateral associated with clearing a transaction which could significantly impact efforts to hedge and keep prices stable for consumers.

On December 11, the full House of Representatives passed the Wall Street Reform and Consumer Protection Act of 2009 by a vote of 223-202. The bill exempts end-users such as public gas systems from the bill's mandated clearing requirements. During the debate, APGA sent a letter to House leadership opposing three amendments that would have negatively impacted public gas systems and each amendment was defeated.

The bill now moves to the Senate where its path remains uncertain. The Senate Banking and Agriculture Committees are working together to draft their own legislation to address Wall Street reform. Their goal is to pass a bill in spring 2010. APGA plans to continue to push Senators to maintain the exemption for public gas systems OTC transactions.

LIHEAP

On December 8, Congress passed the remaining government funding appropriations bills by packaging the remaining bills together in a "mini-bus" and passing them in block. The "mini-bus" includes the fully authorized \$5.1 in funding for the Low Income Home Energy Assistance Program (LIHEAP). APGA has sent letters in March and May this year pushing Congress to fully fund LIHEAP to the authorized \$5.1 billion on LIHEAP. APGA also joined hundreds of other groups and participated in LIHEAP day on Capitol Hill last February, which we plan to do again this coming February.

If you have questions on this article please contact Nate Hill at 202-464-2742 or nhill@apga.org.