AMERICAN PUBLIC GAS ASSOCIATION

August 6, 2015

The Honorable Hal Rogers
Chairman
House Committee on Appropriations
H-305, The Capitol,
Washington, DC 20515

Dear Chairman Rogers:

On behalf of the American Public Gas Association (APGA) and the following public gas systems in Kentucky, we respectfully request that in any Conference Committee for the 2016 Transportation, Housing, and Urban Development (THUD) Appropriations legislation or in any omnibus appropriations bill, you strip out language included in the Senate version directing the Pipeline and Hazardous Materials Safety Administration (PHMSA) to re-evaluate its pipeline safety user fee collection allocation system. This language is little more than a "solution" in search of a problem that conveniently allows interstate natural gas transmission operators to continue to charge unjust and unreasonable rates to homeowners and businesses, denying them the benefits of affordable energy created by the shale gas revolution.

APGA is the national association for publicly-owned natural gas distribution systems. There are currently approximately 1,000 public gas systems located in 37 states including almost 50 in Kentucky. Publicly-owned gas systems are not-for-profit, retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities.

As you are aware, user fees for transmission and distribution fund the PHMSA and are 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 maximizes the efficiency of user fee collection. These user fees are treated by the Federal Energy Regulatory Commission (FERC), which regulates interstate pipelines, as part of the transmission operators' legitimate cost of service and hence are includible in the transmission operators' rates. It is important to understand that the overall rates pipelines charge, which include user fees, must be "just and reasonable" under the Natural Gas Act (NGA).

The thousands of customers of each transmission operator, including local distribution companies (LDCs) and manufacturers, reimburse the transmission operators for these user fees through the rates they pay for transmission service and in the case of LDCs, pass those costs through to their end-use consumers. This historical approach for assessing and collecting user fees is logical and straight-forward in that the money collected by the relative handful of transmission operators is passed on to PHMSA.

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Over the years, the interstate pipelines and their trade association, Interstate Natural Gas Association of America (INGAA), have tried to push the collection of distribution user fees onto local distribution companies (LDCs). From a practical standpoint, pushing the user fee collections from few pipeline companies onto thousands of LDCs and industrial customers would be wildly inefficient and would create a bureaucratic nightmare. FERC would have to catalogue, track, invoice, and collect money from thousands of pipeline customers rather than a few interstate pipelines, wasting agency time and money that could be better spent approving new infrastructure or on any other of FERC's many directives.

In addition, if pipelines need to increase their rates because of escalating user fees, there is already a mechanism to address this potential issue; they can file under Section 4 of the NGA at FERC to ask for a rate increase. Any costs pipelines incur in the process of filing a Section 4 are included in the final rate and thus, pipelines effectively incur no costs to file. In addition, historically, pipeline rate increases to accommodate an increase in user fees have not been turned down by FERC.

So, why do pipelines and INGAA want to change the user fee system as reflected in the Senate version of THUD appropriations? Interstate pipelines do not want to file for a Section 4 rate adjustments because many pipelines are already substantially over-recovering their cost of service under the "just and reasonable" standard of the NGA. According to the Natural Gas Supply Association's (NGSA) study, interstate pipelines over-recovered by $3.0 billion from 2009-2013, and that calculation assumes an extremely generous 12% return on equity. It should be noted that neither the pipelines nor INGAA deny the fact of over-recovery, nor the amount, which explains why they don't want to have the FERC examine their members' rates through the Section 4 process to remedy the increase in user fees, as FERC will very likely lower their rates rather than increase them. To put it in simple terms, they want to move the user fees downstream rather than expose themselves to a FERC rate review under the just and reasonable standard.

As the appropriations process moves forward, we urge you to allow manufacturers, small businesses, and homeowners to reap the benefits of affordable energy from the shale gas revolution by preventing interstate pipelines from changing the user fee system. We thank you for your consideration and stand ready to work with you on this or any other energy issue.

Sincerely,

The American Public Gas Association

Morehead Utilities

Sturgis Natural Gas System

Leitchfield Utilities

Grayson Utilities Commission

Benton Gas System

City of Columbia Gas Department

Carrollton Utilities

Providence Natural Gas System

Henderson Municipal Gas

Clay Natural Gas System

Elizabethtown Natural Gas Department

Murray Natural Gas System