IMPACTS AND IMPLICATIONS:

TAX CUT AND JOBS ACT-FERC TO ADDRESS HOW PIPELINES RECORD CHANGES AND HOW TO PASS THROUGH CHANGES ONTO CONSUMERS

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EXECUTIVE SUMMARY

The American Public Gas Association ("APGA") retained Concentric Energy Advisors, Inc. ("Concentric") to provide a report to assist the APGA in understanding the impacts of Tax Cut and Jobs Act ("TCJA) on the Federal Energy Regulatory Commission ("FERC" or "Commission") regulation of interstate natural gas pipeline rates including the federal income allowance, Accumulated Deferred Income Taxes ("ADIT"), any establishment of regulatory assets and/or regulatory liabilities and how FERC has handled previous changes to the federal income tax rate.

This report summarizes the results of that research, and provides a comparison of the past actions by FERC to the potential impacts of such actions today. The report is organized as follows:

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Based on our research and analysis, Concentric believes that there are many similarities between the TCJA impacts and those that Commission recognized in Order 144 and the implementation of FASB 109 in Docket No. AI93-5-000.

The Commission recognized in Order No. 144 that deferred taxes for utilities' and pipelines' cost of service occur under two types of circumstances: (1) when inadequate or excessive provision for deferred taxes has been made for the tax effects of timing difference transactions within the scope of this rulemaking that had previously been given flow-through treatment; and (2) when inadequate or excessive provision for deferred taxes has been made because of changes in tax rates. The latter cost of service adjustments to deferred taxes are required to be made by the applicant either by following a Commission-approved ratemaking method made specifically applicable to the utility or pipeline or by developing in its next rate case a method for handling any excesses or deficiencies that might exist in the deferred tax reserves because of prior flow-through treatment of timing difference transactions or because of tax rate changes.

[1] *Order No. 144*,15 FERC ¶ 61,133 (1981), FERC Stats. and Regs. ¶ 30,254 (1981)

[2] Accounting for Income Taxes, Docket No. AI93-5-000 (Apr. 23, 1993)

In the adopting of SFAS 109, FERC found that the previously flowed through the tax benefits of certain temporary differences were needed to be included in rates. FERC stated,

> If as a result of action by a regulator, it is probable that the future increase or decrease in taxes payable due to the change in tax law or rates will be recovered from or returned to customers through future rates, an asset or liability shall be recognized in Account 182.3, Other Regulatory Assets, or Account 254, Other Regulatory Liabilities, as appropriate, for that probable future revenue or reduction in future revenue.

The TCJA impacts will most likely follow the same path as FERC has followed historically. The most glaring and undecided factor will be the Commission's handling of Master Limited Partnerships income tax allowance and impact of an assumed 0% federal income taxes on restating ADIT balances.

Since Order 144 in 1981 and then the implementation of SFAS in 1993, FERC has not seen its regulatory framework for regulating just and reasonable rates change in any meaningful manner as it relates to Section 5 of the Natural Gas Act ("NGA"). As such, customers of pipelines regulated by the Commission face the challenge of unlocking the benefits from the TCJA. The prospective nature of any benefits from FERC's current and potential proceedings might not be seen in customers rates for more than twelve-to-eighteen months after the passing of the TCJA. As stated by the APGA in previous filings at the Commission, there is not a better time for FERC to address the limitations of Section 5 of the NGA and ensure that all customers have protection from unjust and unreasonable rates.

SECTION 2:
TAX CUT AND JOBS ACT AND FERC'S RESPONSE

The Tax Cut and Jobs Act (TCJA), signed into law by President Trump on December 22, 2017, reduced the federal corporate income tax rate from 35% to 21% effective for tax years beginning after December 31, 2017[3]. Many regulators and utilities are quantifying the impacts of tax reform so that they potentially can adjust rates/tariffs to provide the benefits of such changes to customers. This insight is intended to help utilities consider the potential impact of tax reform on their 2018 net revenues. The key takeaway is that the impact of tax reform on existing revenues/tariffs established prior to tax reform is due primarily to the effects of: 1) Current income tax expense from the change in the tax rate from 35% to 21% (including the effects of tax gross-ups) 2) Originating book/tax differences resulting in deferred income taxes now being measured at 21% vs. 35% (including the effects of tax gross-ups).

On March 15, 2018, FERC took actions to address changes in federal tax rates for companies it regulates, including electric transmission utilities and natural gas and oil pipelines. As a result of the TCJA reducing the federal corporate income tax rate from 35 percent to 21 percent, a portion of an ADIT liability that was collected from customers will no longer be due from public utilities, interstate natural gas pipelines, and oil pipelines to the IRS and is considered excess ADIT, which must be returned to customers in a cost-of-service ratemaking context. The Commission expects that a similar effect would be reflected in the cost-of-service summary in oil pipeline Form No. 6, page 700. For public utilities, interstate natural gas pipelines, and oil pipelines that have an ADIT asset, the Tax Cuts and Jobs Act will result in a reduction to the ADIT asset, and public utilities, interstate natural gas pipelines, and oil pipelines may seek to reflect in rates a portion of such reductions. Public utilities, interstate natural gas pipelines, and oil pipelines are required to adjust their ADIT assets and ADIT liabilities for the effect of the change in tax rates in the period that the change is enacted.[4]

For the electric sector, FERC recognized "because most of the FERC-regulated electric transmission companies have transmission rates that automatically adjust with changes in the tax rates, the adjustments for much of the industry are already taking place." However, FERC simultaneously issued "show cause" orders directing 48 companies to propose revisions to their transmission tariffs that currently incorporate a federal tax rate of 35%[5].

For the natural gas pipeline sector, FERC issued a Notice of Proposed Rulemaking (NOPR), "that would allow FERC to determine which pipelines under the Natural Gas Act may be collecting unjust and unreasonable rates in light of the corporate tax reduction and changes to the Commission's income tax allowance policies…" In addition, the NOPR requires pipelines "to file a one-time report,

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[3] Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017) ("Tax Cuts and Jobs Act")

[4] Inquiry Regarding the Effect of the Tax Cuts and Jobs Act on Commission-Jurisdictional Rates, 162 FERC ¶ 61,223 (2018) ("NOI")

[5] Show Cause Order, 162 FERC ¶ 61,225 ("Show Cause")

called FERC Form No. 501-G, on the rate effect of the new tax law and changes to the Commission's income tax allowance policies." FERC also provided that "each pipeline would have four options:

• Each pipeline could make a limited section 4 filing to reduce its rates by the percentage reduction in its cost of service shown in its FERC Form No. 501-G.

• Each pipeline may commit to file either a prepackaged uncontested rate settlement or a general NGA section 4 rate case if it believes that using the limited section 4 option will not result in a just and reasonable rate. If the pipeline commits to do this by December 31, 2018, FERC will not initiate a section 5 investigation of its rates prior to that date.

• Alternatively, each pipeline that does not believe it has to change its rates may choose to file a statement explaining why.

• Finally, a pipeline may file the new FERC form without taking any other action. At that point, FERC would consider whether to initiate a section 5 investigation of any pipeline that has not submitted a limited section 4 rate reduction filing or committed to file a general section 4 rate case."[6]

FERC proposed to require NGPA section 311 and Hinshaw pipelines to modify their rates for interstate service if they change their rates for intrastate service to reflect the TCJA. If such change occurs for the intrastate rate, the pipeline would be required to file a new rate election at FERC within 30 days after the reduced intrastate rate becomes effective.

On the same day, FERC issued its order on the DC Circuit Court remand of SFPP, L.P., Docket No. IS08-390 (United Airlines)[7]. FERC's decision removed the income tax allowance from SFPP's cost of service. It was FERC's determination that the removal of the income tax allowance of SFPP (an MLP) would put SFPP on an even playing field with corporate entities while providing it with a sufficient return through the Discounted Cash Flow ("DCF") ROE determination. Since the DCF analysis determines ROE based on the pre-tax return demanded by market investors, there is no justification to impute partners' income tax costs to the pipeline's cost of service.

Additionally, the Revised Policy Statement explains the Commission's conclusion following United Airlines that an impermissible double recovery results from granting an MLP pipeline both an income tax allowance and a DCF ROE. Accordingly, the Commission will no longer permit MLPs to recover an income tax allowance in their cost of service. Therefore, the Commission instructs oil pipelines organized as MLPs to reflect the Commission's elimination of the MLP income tax allowance in their Form No. 6, page 700 reporting.[8]

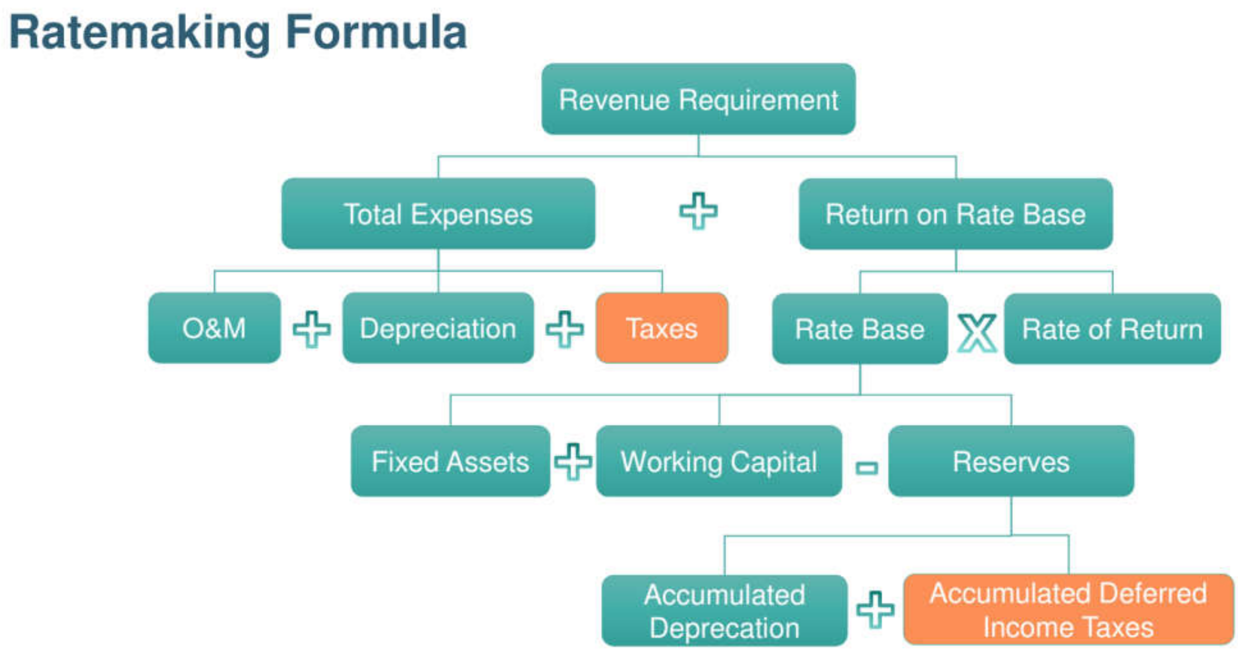
[6] Interstate and Intrastate Natural Gas Pipelines; Rate Changes Relating to Federal Income Tax Rate 162 FERC ¶ 61,226 (2018) ("NOPR")

[7] *SFPP, L.P.*, Opinion No. 511-C, 162 FERC ¶ 61,228 (2018) ("Remand Order")

[8] *ID*

SECTION 3:
COST OF SERVICE AFFECTED COMPONENTS

Taxes and ADIT-The Cost of Service Components Affected



A. Income Tax Allowance

In computing an income tax allowance, a utility needs to first compute taxable income. Computing taxable income is done by taking the total return dollars and deducting the interest expense. Interest expense is computed by multiplying the weighted cost of debt by the rate base. The remaining amount is the after-tax return, or the equity return after taxes. Once the equity return is established, the appropriate income tax allowance can be calculated.

Currently, the clear majority of FERC regulated natural gas pipelines have an embedded 35% federal income tax rate in their storage and transportation rates. Regulated entities with less than $10 million of taxable income will have 34% as their embedded federal income tax rate. Each pipeline has a unique state income tax allowance due to where in the US the pipeline or storage facility is operating.

Some regulated pipelines have settled on a pre-tax rate of returns which does not allow for a clear understanding of the differentiation of costs included in rate recovery between income taxes (both federal and state) and equity return dollars.

Because of the TCJA, cost of service-based rates will now need to have a 21% federal income tax rate to replace the previous 35%. MLP assets will need to use 0% as its federal income tax rate due to FERC's decisions discussed earlier. A 40%-100% reduction in the federal income tax rate will have major impacts on rates.

A recent settlement in the Eastern Shore Natural Gas Company[9] included an automatic reduction in rates based on a change in the federal income tax rate. Figure 2 shows both the monthly and daily rates for the reservation services charged by Eastern Shore. The rate change for the path Receipt Zone 1 to Delivery Zone 2 decreased by 8.44% and Receipt Zone 2 to Delivery Zone 2 decreased by 8.40%.

Comparison of Month & Daily Rates for Eastern Shore Natural Gas Company

EASTERN SHORE'S RATE REDUCTION TCJA-MONTHLY & DAILY RATES

35% FEDERAL INCOME TAX RATE

Path Matrix		
R1 to D1	$ 13.6418	$ 0.4485
R1 to D2	$ 29.2273	$ 0.9609
R2 to D1	$ 11.8959	$ 0.3911
R2 to D2	$ 27.4814	$ 0.9035

21% FEDERAL INCOME TAX RATE

Path Matrix		
R1 to D1	$ 12.8572	$ 0.4227
R1 to D2	$ 26.7607	$ 0.8798
R2 to D1	$ 11.2694	$ 0.3705
R2 to D2	$ 25.1729	$ 0.8276

The settlement in Eastern Shore is notable due its self-awareness of the impacts of a change in the federal income tax rate, but this settlement did not address or capture the impacts on ADIT. Thus, there could be additional savings to customers beyond the 8%-plus reduction related to the Income Tax Allowance.

B. ADIT

ADIT is the accumulation of amounts collected through rates for income taxes but not yet needed to pay income taxes. In ratemaking, ADIT associated with depreciation expense is the main component of total ADIT. ADIT associated with depreciation expense results because of differences between book straight-line depreciation and the accelerated depreciation allowed for federal tax purposes. Depreciation expense recovered in a pipeline's rates only captures the straight-line depreciation expense. For tax purposes, a pipeline can choose an accelerated method of depreciation which results in a higher depreciation expense in the early years compared to the straight-line method which is used for rate purposes. A higher depreciation expense used as a deduction for income tax purposes in the early year's results in a lower tax base. The difference in

[9] Eastern Shore Natural Gas Company, Docket No. RP17-363-000, 162 FERC ¶ 61,183

the amount of taxes collected in rates and the amount of taxes paid are accumulated each year and are deducted from a pipeline's rate base as ADIT.

Ratepayers are prepaying the income taxes and the pipeline will have use of these extra dollars until it must pay more income taxes in subsequent years as its taxable deduction for depreciation decreases. As a result, ADIT is a deduct from rate base. The effect of this credit is to reduce the cost of providing service to ratepayers by an amount equal to the deferred income taxes multiplied by the overall rate of return.

That is, there will be a point in time when the depreciations expense computed on an accelerated basis for tax purposes will be less than the depreciation expense under the straight-line method. At this point, a pipeline will be collecting less taxes in rates than it needs to pay for income tax purposes. Thus, the monies accumulated as ADIT will be used to pay these taxes and the ADIT balance will start to decline. Tax timing differences are due to differences between the application of generally accepted accounting principles in recognizing revenues and expenses and the provisions of the income tax laws. While most of deferred income taxes are related to the use of accelerated depreciation methods, other types of transactions can result in deferred income taxes, Examples of these transactions include costs deferred and recovered in subsequent periods because of pension costs, post-retirement benefits other than pensions, and regulatory decisions.

Under the provisions of the Tax Reform Act of 1986 and the 2017 TCJA, utilities are prohibited from flowing back excess deferred taxes related to depreciation timing differences faster than under the "average-rate" assumption method. The average-rate assumption method for calculating the reversal of deferred taxes results in the normalization of the excess included in the utility's reserve for deferred taxes. The excess deferred income taxes associated with depreciation timing differences are commonly referred to as "protected" excess deferred taxes. All other excess deferred income taxes not associated with depreciation timing differences are referred to as "unprotected" excess deferred taxes.

Regarding flow-back or recovery of plant-based ADIT the Commission seeks comment on how the Average Rate Assumption Method, or alternatively the Reverse South Georgia Method or South Georgia Method, will be implemented and used to adjust the tax allowance or expense included in cost-of-service rates to reflect the amortization of excess and deficient plant-based ADIT. Given this has been the historic practice of the Commission it makes sense that the protected balance of Excess ADIT is tied to the associated vintage year assets, just as ADIT is, and will be flowed back to customers over the remaining life of the asset.

The Commission also seeks comment on treatment of ADIT associated with assets sold or retired after December 31, 2017. The balance of any excess ADIT must be refunded to customers, thus it is imperative that the amount of Excess ADIT owed to customers that is associated with any assets that are removed from the books because of a sale or retirement not be lost in the accounting of the sale or retirement of assets.

Regarding bonus depreciation and the change under the TCJA the Commission seeks comment on whether and if so how, the Commission should act to address associated issues. Bonus depreciation is no longer available under the new law for certain utility assets. It appears that the only issue before the Commission pertains to jurisdictional entities that had bonus depreciation prior to the

Tax Cuts and Jobs Act. Accordingly, any previously accrued bonus depreciation is another source of excess ADIT and should be accounted for in the determination of the balance of excess ADIT.

C. Regulatory Liabilities and/or Regulatory Assets

The Commission proposed in its 1992 NOPR[10] to provide accounting for regulatory assets and liabilities, i.e., assets and liabilities created through the ratemaking actions of regulatory agencies and not specifically provided for in other accounts. The NOPR proposed to create four new accounts for regulatory assets and liabilities: Account 182.3, Other Regulatory Assets; Account 244, Other Regulatory Liabilities; Account 407.3, Regulatory Debits; and Account 407.4, Regulatory Credits. The first two are balance sheet accounts; the latter two are income accounts.

In the NOI, the Commission seeks comment on "how to ensure that rate base continues to be treated in a manner similar to that prior to the Tax Cuts and Jobs Act (i.e., how to preserve rate base neutrality), until excess and deficient ADIT have been fully settled in a just and reasonable manner."[11] This will be achieved, as it has previously, with the creation of a Regulatory Liability.

The excess ADIT that is reclassified from ADIT Account 282 to the regulatory liability account Excess ADIT Account 254, should be treated for ratemaking purposes as if the amounts were still ADIT. That is, Account 254 will be deducted from rate base. Rate base will not increase or decrease simply because there has been a change in the tax rate. Since customers are the originators of this cost-free source of capital for the utilities, the Excess ADIT Regulatory Liability will ensure the customers receive the benefit for providing this cost-free source of capital to the utilities until the Excess ADIT has been returned to customers.

The Commission seeks comment on its belief the "it may be appropriate for public utilities and interstate natural gas pipelines to include interest on excess and deficient ADIT for the time period from January 1, 2018." Interest on Excess ADIT may not be necessary. If the Account 254 balance of Excess ADIT is deducted from rate base, which has been done previously, customers will be credited with an effective interest rate of the utilities' pre-tax overall weighted cost of capital. However, if the Commission does not require deduction of the Excess ADIT Account 254 Regulatory Liability balance from rate base, interest should apply to the Account 254 balance of Excess ADIT at the pre-tax overall weighted cost of capital.

The initial impact to rate base will be zero. Because of the amortization, rate base will increase. This is an important concept to grasp since companies have an incentive to begin amortization as quickly as possible to try to get the highest rate base possible to apply a rate of return to in its next rate proceeding.

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[10] Revisions to Uniform Systems of Accounts to Account for Allowances under the Clean Air Act Amendments of 1990 and Regulatory-Created Assets and Liabilities and to Form Nos. 1, 1-F, 2 and 2-A, Docket No. RM92-1, Order No. 552, 62 FERC ¶ 61,299

[11] NOI at 9.

Amortization of the Excess ADIT will most likely be accounted for by a debit adjustment to Account 254, reduce the amount of Excess ADIT, with an offsetting credit transaction to 407.3, Regulatory Debits.

		Debit	Credit
Account 254	Regulatory Liability		($X)
Account 403.7	Regulatory Debits	$X	

Additionally, the Account 407.3, Regulatory Debits, will be captured as a dollar for dollar reduction in the Depreciation, Depletion and Amortization schedule (normally Statement H-2 in a FERC cost of service filing). Thus, as the amortization period extends into the future, the realized value that is captured by customers decreases since rate base increases over time. Furthermore, pipelines will likely be pursuing higher rates of returns given the Commission's elimination of an income tax allowance for MLPs and any fallout from the Commission's review of its 1999 Certificate Policy Statement.

SECTION 4:
FERC ORDER 144--TAX NORMALIZATION

A. Background

In 1981, the Commission amended its regulations to require companies to determine the income tax allowance included in jurisdictional rates on a fully normalized basis. The Commission in Order No. 144 recognized that the adoption of full normalization, as well as tax rate changes, might result in excesses or deficiencies in the deferred tax accounts and required rate applicants to make provision in the income tax component of their cost of service for any such excess or deficiency.[12]

Order No. 144 stated that rate applicants must "begin the process of making up deficiencies in or eliminating excesses in their deferred tax account reserves so that, within a reasonable period of time to be determined on a case-by-case basis, they will be operating under a full normalization policy." Order No. 144 further specified that a rate applicant must adjust pertaining to reversals from prior flow-through or tax rate changes in "the applicant's next rate case following the applicability of Order No. 144."[13]

The Commissioned explained that the central rationale for tax normalization is that tax normalization matches the recognition in rates of the tax effects of the costs and revenues of utilities to the recovery in rates of the associated costs and revenues themselves. In terms of expenses only, tax normalization matches tax benefits with cost responsibility. The Commission found that this matching concept leads to fair and equitable results both to the regulated entities and to their customers. Equity is also achieved over time using tax normalization.

The Commission went on to lay out two legal issues that were central to the controversy and were raised by the commenters in the rulemaking. One issue was whether the Commission should treat tax normalization of the tax effects of miscellaneous timing differences as a rule or whether individual circumstances of the firms and their customers are so unique that the decision should be determined on a case-by-case basis. A second legal issue raised was whether a tax normalization rule is consistent with the just and reasonable standards in the Federal Power Act and Natural Gas Acts. In the end, the Commission issued its general rule and found it consistent with the FPA and NGA.

Other issues raised in the rulemaking related to the use of the terms "phantom taxes" and "permanent tax savings" which have often been employed to advance the argument that utilities and, more important, their stockholders are earning excess profits under tax normalization. Since deferred tax accounting does not permit utilities to transfer accumulated deferred taxes to common equity accounts for the benefit of stockholders, the Commission reiterated that tax normalization does not create excess profits.

[12] *Tax Normalization for Certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenues for Ratemaking and Income Tax Purposes*, Order No. 144, FERC Stats. & Regs. ¶ 30,254 (1981), *order on reh'g*, Order No. 144-A, FERC Stats. & Regs. ¶ 30,340 (1982).

[13] *ID*

The final rule required tax normalization of all miscellaneous timing differences, no provision was made for electing an option or for changing that election. There were two questions that the Commission addressed in the final rule. One question was how to treat the effects of deferred taxes when there are tax rate changes. A related question (in terms of the ratemaking solution) was how to treat timing differences that had previously been flowed through. The tax rate change problem arises when, for example, the tax rate was cut from 48% to 46% and the amounts provided for in rates and accumulated at a 48% tax rate for deferred taxes is more than that needed to provide for future tax liabilities to be determined at the 46% tax rate. The question was how to return these excess deferred taxes to consumers.

The final rule required rate applicants to begin the process of making up deficiencies in or eliminating excesses in their deferred tax reserves so that, within a reasonable period to be determined on a case-by-case basis, they will be operating under a full normalization policy. The final rule also required a rate applicant to compute the income tax component in its cost of service by making provision for any excess or deficiency in its deferred tax reserves resulting both from the prior flow through treatment of timing differences and from tax rate changes.

Finally, the Commission stated that the implementation of its Final Rule must be consistent with a Commission-approved ratemaking. If no Commission-approved ratemaking method has been made specifically applicable to the rate applicant, the Commission required that the rate applicant advance some method that would accomplish the same purpose. The appropriateness of the method will be adjudicated in the next rate proceeding. Since the appropriateness of any method to accomplish the objective of full normalization at current tax rates has not been analyzed by the Commission on a generic basis, the Commission is, at this time, requiring resolution of this problem on a case-by-case basis. As the issue is resolved in a number of cases, one or more specific methods (e.g. the "South Georgia Method") that would have wide applicability may be adopted.

B. South Georgia Methodology

On May 31, 1977, Natural Gas Pipeline Company of America ("Natural") filed in Docket No. RP77-98 a general rate increase proposed to become effective on July 1, 1977. By Commission order issued June 30, 1977, the proposed rate increase was suspended for five months and thereafter allowed to become effective subject to refund. A settlement dated February 5, 1979, resolved all issues except (1) rate of return on equity and (2) tax normalization. This settlement was approved by the Commission by letter order of May 15, 1979.[14]

On June 30, 1978, Natural filed in Docket No. RP78-78 a subsequent general increase which was permitted by the Commission to become effective on December 1, 1978. By order issued October 4, 1979, the Commission approved a settlement resolving all but three reserved issues, one of which concerned tax normalization. On March 26, 1979, the Commission severed the tax normalization issue and consolidated it with the issues reserved in Docket No. RP77-98 for the purpose of joint hearing and decision.[15]

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[14] Opinion No. 108; Opinion and Order Affirming in Part and Modifying in Part Initial Decision, 13 FERC ¶ 61,266

[15] *ID*

At issue was the proper method by which Natural would be permitted to recover, through the tax allowance component of its cost of service, amounts, previously unprovided, representing a deferred tax deficiency associated with certain properties acquired prior to 1970. By operation of the reversal of past timing differences between tax and book depreciation. Natural has due in the periods included in the instant proceedings and in future periods a greater tax liability than previously recorded.

The issue of deferred tax recovery was raised by the fact that insufficient amounts had been credited to Natural's deferred tax reserve in Account No. 282 which is intended to cover this deferred tax liability when due in future years. The deficiency in this account was traced to shifts in ratemaking policy by the Federal Power Commission (now FERC) and changes in the federal tax code which permitted Natural in some years to defer tax benefits from liberalized depreciation, and, in others, required it to flow through such benefits to customers.

Deferral of tax benefits was achieved during some years by "normalizing" the difference in the tax effect between accelerated tax depreciation and straightline book depreciation. These tax effects, which gave rise to greater revenues during these periods, were applied to the deferred tax reserve for use in later years. Under the "flow-through" method used in other years, Natural applied the effect of accelerated tax depreciation to derive a lower cost-of-service tax allowance, thereby charging customers reduced rates to reflect the passing on of tax benefits actually received during those periods. The deferred tax reserve was not augmented during these years.

In weighing competing methods, the Commisison considered not only how Natural's rates would be affected, but any potential ratemaking impact the decision may have on other pipelines which might also be compelled similarly to seek recovery of uncompensated tax deferrals. The issue before the Commisison was one of first impression in a litigated case. The Commission recognized its decision would likely impact the tax accounting and ratemaking treatment chosen by other jurisdictional pipelines.

From this broader administrative and policy assessment, the Commission concluded that the "South Georgia" method should be adopted in both proceedings. Two factors underlied that decision. First, the Commission found the "South Georgia" method preferable on the strength of its equitable merits. The "South Georgia" method achieved a more equitable allocation of transition costs. Natural's transition from an account statement using a hybrid of normalization and flow-through to a statement using full normalization resulted in costs arising from the transition. The necessity to recover previously unfunded future tax liabiities would inevitably be borne by certain of Natural's ratepayers.

Second, a full normalization of tax effects of all prior timing differences because it equitably allocates among all customers tax benefits which have arisen from electing to apply liberalized depreciation of certain property over that property's full useful life, and prevents subsidization of current customers by future customers who otherwise would be denied these tax benefits when they are exhausted in later years.

The Commission found that any approach adopted that lead to full normalization would also equitably allocate the costs of transition between Natural's current and future ratepayers while seeking to avoid favoring one generation of customers at the expense of others. The "South Georgia" method spread recovery over a longer period, the Commission found the "South Georgia" method more equitable in allocating the burden of recovering uncompensated deferred tax liabilities over a potentially wider range of customers. Further, by shifting a portion of the costs to additional customers served in later years, the " South Georgia" method ensures a piece of the cost burden would be borne by future customers so that they too would bear a share of costs necessary to provide service to them.[16]

There is no reason to believe that the Commission will deviate from the current "South Georgia" framework for the tax normalization that will required after the TCJA.

[16] *ID*

SECTION 5:
IMPLEMENTATION OF SFAS 109, DOCKET NO. AI93-5-000

In February 1992, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 109, Accounting for Income Taxes (SFAS 109). This Statement was the culmination of a process which the FASB began in 1982 to reexamine the accounting standards for income taxes. SFAS 109 superseded Accounting Principles Board Opinion No. 11, Accounting for Income Taxes (APB 11). Since the issuance of Order No. 144 in 1981, the FERC's regulations have required companies to determine the income tax allowance included in jurisdictional rate levels on a fully normalized basis. Also, Order No. 144 requires an entity to compute the income tax component in its cost of service by making provision for any excess or deficiency in deferred taxes under the following circumstances: (1) if the entity has not provided deferred taxes in the same amount that would have accrued had tax normalization been applied for tax effects of timing difference transactions originating at any time prior to the test period; or (2) if, as a result of changes in tax rates, the accumulated provision for deferred taxes becomes deficient in or in excess of amounts necessary to meet future tax liabilities as determined by application of the current tax rate to all timing difference transactions originating in the test period and prior to the test period.[17]

FERC's accounting order for approval to adjust deferred tax accounts was the requisite authority for making adjustments to the deferred tax accounts when the application of SFAS 109 does not affect net income (i.e. the deferred tax adjustments are accompanied by the recordation of equal regulatory assets or liabilities). Entities shall request and obtain specific FERC approval for all other adjustments to the deferred tax accounts, including those related to nonjurisdictional activity. The filing shall include a complete explanation of and justification for an entity's proposed accounting.

The Commission posed the question: How should an entity record the effect of a change in tax law or rates that occurs after the year of initial implementation of SFAS 109?

The Commisison directed its regulated utilities;

> The entity shall adjust its deferred tax liabilities and assets for the effect of the change in tax law or rates in the period that the change is enacted. The adjustment shall be recorded in the proper deferred tax balance sheet accounts (Accounts 190, 281, 282 and 283) based on the nature of the temporary difference and the related classification requirements of the accounts. If as a result of action by a regulator, it is probable that the future increase or decrease in taxes payable due to the change in tax law or rates will be recovered from or returned to customers through future rates, an asset or liability shall be recognized in Account 182.3, Other Regulatory Assets, or Account 254, Other Regulatory Liabilities, as appropriate, for that probable future revenue or reduction in future revenue. That asset or liability is also a temporary difference for which a deferred tax asset or liability shall be recognized in Account 190, Accumulated Deferred Income Taxes or Account 283, Accumulated Deferred Income Taxes Other, as

[17] *ID*

appropriate.[18]

Florida Example of Accounting for Deferred Taxes Under SFAS 109

Florida State Staute Section 25-14.013

(1) Statement of Financial Accounting Standards No. 109, Accounting for Income Taxes, (SFAS 109, February 1992), incorporated by reference, shall be implemented by each utility in a manner such that the balances of excess and deficient deferred income taxes are properly stated and that the application of SFAS 109 is revenue neutral in the ratemaking process.

(2) Definitions. For purposes of this rule, the following definitions apply:

(a) "Statutory amounts." The accumulated deferred taxes that are required by § 167(l)(3)(G)(ii) or § 168(f)(2) or (i)(9) of the Internal Revenue Code.

(b) "Non-statutory amounts." The accumulated deferred taxes that are not required by § 167(l)(3)(G)(ii) or § 168(f)(2) or (i)(9) of the Internal Revenue Code.

(c) "Protected amounts." The accumulated deferred taxes that are subject to § 203(e) of the Tax Reform Act of 1986.

(d) "Unprotected amounts." The accumulated deferred taxes that are not subject to § 203(e) of the Tax Reform Act of 1986.

(3) Upon implementation of SFAS 109, each utility shall first record the income tax gross-up required by the statement, to account for the temporary differences previously recorded net of tax, and the related deferred income taxes in the appropriate balance sheet accounts. The historical income tax rates in effect when the temporary differences were originally realized shall be used in calculating the income tax gross-up for items previously recorded net of tax.

(4) Each utility shall then recalculate all deferred income tax balances to reflect the enacted income tax rates in the period the timing differences are expected to reverse. The difference between the deferred income tax balances per books and the recalculated balances shall be recorded in regulatory asset and liability accounts as prescribed by the applicable Uniform System of Accounts at the time of recalculation.

(5) The deferred income taxes on prior flow-through items and temporary differences, which were not considered timing differences prior to implementation of SFAS 109, such as equity AFUDC and unamortized investment tax credits, shall be recorded at the enacted income tax rates. Corresponding regulatory assets and liabilities shall also be recorded.

(6) Regulatory assets and liabilities as established by each utility in subsections (4) and (5) are considered temporary differences and shall be grossed up for income taxes at the enacted income tax rates to reflect the revenue requirements to be received from or refunded to customers in the future. This income tax gross up shall be recorded in the related regulatory asset or liability accounts and the deferred income tax accounts. The regulatory assets and liabilities created under SFAS 109 shall be considered as temporary differences and deferred income taxes shall be provided.

[18] *ID, Question 8*

(7) Deferred income tax assets shall be recorded by each utility for all tax credit carry-forwards including, but not limited to, net operating loss carry-forwards, investment tax credit carry-forwards and alternative minimum tax credit carry-forwards.

(8) Each utility shall maintain accumulated deferred income tax accounts at a level of detail sufficient to distinguish between Federal and state amounts, statutory and non-statutory amounts and protected and unprotected amounts. Separate accounts shall be maintained for federal and state income taxes. Differences between prior and current statutory rates shall be recorded in a regulatory asset or liability account.

(9) The regulatory assets and liabilities shall be reversed as the temporary differences reverse. Excess and deficient deferred income taxes associated with temporary differences shall not be reversed any faster than allowed under either the average rate assumption method of § 203(e) of the Tax Reform Act of 1986 or Revenue Procedure 88-12, whichever is applicable. For good cause shown, this provision may be waived notwithstanding the requirements of subsection (1).

(10) When the statutory income tax rate is changed as a result of legislative action after the implementation of SFAS 109, each utility shall adjust its deferred income tax balances to reflect the new statutory income tax rate. The recording of regulatory assets and liabilities for the excess or deficient deferred income taxes, accounting detail and reversal of the excess and deficient deferred income taxes shall comply with subsections (4) through (9) of this rule.

(11) All regulatory assets and liabilities and debit and credit deferred taxes resulting purely from implementation of SFAS 109 shall be treated in a manner similar to accumulated deferred income taxes at zero cost and shall be included in the capital structure as a separate line item in all reports filed with the Commission.

(12) Implementation and restatement for SFAS 109 shall be allowed for ratemaking purposes at a time which coincides with implementation for external reporting purposes if implementation is in compliance with this rule.[19]

I have included Figure 6 due in part that I believe it is a great example of how SFAS 109 has been implemented under the FERC Uniform System of Accounts and encapsulated by the state of Florida.

[19] *Rulemaking Authority 350.127(2) FS. Law Implemented 366.05(1), 367.121(1)(a) FS. History–New 2-14-93.*

SECTION 6: MASTER LIMITED PARTNERSHIP INCOME TAX ALLOWANCE ELIMINATION

FERC issued its order on the DC Circuit Court remand of SFPP, L.P., Docket No. IS08-390 (United Airlines)[20]. FERC's decision removed the income tax allowance from SFPP's cost of service. It was FERC's determination that the removal of the income tax allowance of SFPP (an MLP) would put SFPP on an even playing field with corporate entities while providing it with a sufficient return through the Discounted Cash Flow ("DCF") ROE determination. Since the DCF analysis determines ROE based on the pre-tax return demanded by market investors, there is no justification to impute partners' income tax costs to the pipeline's cost of service.

This was a 10-year in the making finding. The Commission had previously fought vigorously in its previous orders as well as other circuit court cases to attempt to keep the income tax allowance for MLPs. The Commission and its Commissioners basically said their hands were tied and the elimination of the income tax allowance was the only remedy from the remand from the Circuit Court.

The MLP Association's comments that each income tax allowance should be handled on a case by case basis is supported with Appendix A of their comments showing 10 different corporate structures that it believes should be addressed. In my opinion, the Commission will be faced with challenges to the blanket elimination of the MLP income tax allowance and the use of a 0% future income tax liability in the calculation of a regulated entities ADIT balance given the unique issues presented by different corporate structures. There are different paths the Commission could take in resolving the issue. First, the Commission could decide to leave its current policy in place and allow challenges to the policy on a case by case basis. Second, the Commission could open a NOPR and address the different corporate structures, currently in-place, while still leaving opening any challenges to future structures as they arise. Given the impact on the market that the Commission's MLP decision has had, I would think it is probable they act on a NOPR or pipelines will have to address the issue on individual assets in separate proceedings.

The table below, captures a summary of the requests for rehearing and clarification of the Commission's decision. As noted previously, this is the wild card coming out of the TCJA and the Commission's decision on the Circuit Remand of SFPP, L.P.

[20] *ID*

MLP Income Tax Elimination Request for Rehearing/Clarification

Association of Oil Pipe Lines
• AOPL argues that the new order violates the Supreme Court's mandate for the Commission to "to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and attract capital."21
• Since the order has been issued, MLP market cap has decreased by $30 billion.22
• AOPL urges the Commission to reverse the decision or to issue a clarification that the Revised Policy Statement is not a final rule.
Dominion Energy, Inc.
• Dominion argues that decision is unjust to subsidiaries of C-corporations, because the MLP pipeline has the same ultimate tax liability as if it was a C-corporation. Under the new system the C-corporation parent company would recover a tax allowance, but the MLP pipeline would not. Dominion seeks clarification that MLP subsidiaries of C-corporations are exempt.
• FERC simply adopted the DC circuit opinion that there was double recovery and failed to verify it themselves.
• Dominion cites the same Supreme Court order as AOPL.
• The FERC must clarify that individual companies can demonstrate that they should be exempt from this ruling.
Dominion Energy, Inc. Supplemental Filing
• "The Commission failed to follow the Administrative Procedure Act's notice-and comment rulemaking requirements when it issued a binding rule through a policy statement."23
Enable Mississippi River Transmission, LLC, and Enable Gas Transmission, LLC
• The disallowances should have been made on a case by case basis.
• "Further, the RPS erred in apparently attempting to reverse the D.C. Circuit's decision in ExxonMobil Oil Corporation v. FERC while lacking the authority to do so. See Part IV.B, infra."24
• The decision unfairly benefits corporate pipelines.
• Enable states the policy is overly broad.
• RPS did not analyze the industry impact.
• RPS did not account for the risk difference between C-corporations and MLPs.
• ROE can be derived in a method that would have avoided double recovery, therefore it was wrong to eliminate the income tax allowance.
• RPS did not account for the long-term growth rate policies for MLPs in DCF proxy groups.
Enbridge Energy Partners, L.P. and Spectra Energy Partners, LP
• The Commission did not act reasonably and did not provide the required notice-and-comment process. The new ruling treats two similar pipelines differently.

[21] *Federal Power Commission v. Hope Natural Gas Co.,* 320 U.S. 591, 603 (1944) *(Hope)*.

[22] *Request for Rehearing or, Alternatively, Clarification of The Association of Oil Pipe Lines,* Docket PL17-1-000. April 16, 2018, at page 2.

[23] *Supplemental Request for Rehearing and Clarification and Expedited Action of Dominion Energy Inc.,* Docket PL17-1-000. At page 2.

[24] *Request of Enable Mississippi River Transmission, LLC And Enable Gas Transmission, LLC For Clarification and If Necessary Rehearing,* Docket PL17-1-000. April 16, 2018, at page 5.

EQT Midstream Partners, LP
• The Commission should have conducted an independent review aside from the DC circuit court's analysis.
• Cites the Hope case that AOPL references.
• Because the order was a policy statement, and not a binding law, it must be determined on a case-by-case basis.
INGAA
• They request that MLPs be permitted to file on an individual basis to address double recovery concerns and when adjustments are made to ROE.
• INGAA requests a rehearing that they and other commenters failed to prove there was no double recovery.
Kinder Morgan, Inc. Gas Pipelines
• The Commission should clarify that the new policy does not apply to non-MLP pass-through entity pipelines. If it does, the Commission should grant the request for rehearing and reverse the decision.
Master Limited Partnership Association
• It is not reasonable to single out MLPs, the policy should be determined on a case by case basis.
Plains Pipeline, L.P.
• Supports the suggestions made by AOPL.
• The Commission should clarify if the income tax allowance will be permitted for their units that are owned by corporations and choose to be taxed as corporations.
SFPP, L.P.
• The decision was arbitrary and capricious.
• There was no rationale behind the decision.
Tallgrass Pipelines
• The Commission should have conducted an independent review aside from the DC circuit court's analysis.
• The Commission did not account for MLPs owned by C-corporations.
• The Commission did not follow the correct notice-and-comment procedure.
• The Commission should either grant rehearing or clarify that MLPs owned by C-corporations are exempt and that MLPs may seek the allowance in individual proceedings with the Commission.
TransCanada Corporation
• The disallowance should have been determined on a case-by-case basis.
• The ruling did not account for C-Corporation owned MLPs.
• The Commission did not account for industry impact.
• The Commission did not account for different proxy groups and ROE calculation methodologies.
• The Commission did not examine long term growth policies for MLPs in DCF proxy groups.

SECTION 7: THE EXODUS FROM THE MLP CORPORATE STRUCTURE

Given the 10-year battle in SFPP, L.P. it would lead many FERC observers to question if pipeline operators will stick with the MLP structure.

The day after the Commission's order on remand, Alan Armstrong, Williams' president and chief executive officer, made the following statement: "Given the relatively small percentage of our revenues that are affected by this ruling, we don't expect this ruling to impact our previous guidance for WMB and WPZ cash dividends and distributions and related growth rates. Additionally, as we've often discussed, we are well-positioned to execute on corporate structure changes, which would restore the income tax allowance to the pipeline's cost of service rates."[25]

Boardwalk executives said on an April 30 conference call that they do not see a near-term impact on revenues because of a decision by the US Federal Energy Regulatory Commission to no longer allow oil and gas pipeline MLPs to recover an income tax allowance in cost-of-service rates. "However, given the effects of a number of factors, including the Tax Cuts and Jobs Act of 2017 and the revised policy statement, we are evaluating whether remaining a publicly traded master limited partnership is the appropriate structure for Boardwalk," Boardwalk GP CEO Stanley Horton said on a first-quarter earnings call.

Horton said the company's parent, Loews, is also "seriously considering" exercising a right to purchase outstanding Boardwalk units at a price that would equal the average daily closing price for a 180-day period prior to the day when and if it decides to do so.

Boardwalk's general partner can purchase all the limited partner's outstanding units if it owns more than 50% of the partnership's outstanding equity and it receives a legal opinion that being a passthrough entity has or is likely to have an adverse effect on the maximum applicable rate that can be charged to customers. The company said it is looking into whether FERC's recent action satisfies that requirement.

"It appears that FERC's action would materially decrease the maximum applicable rates Boardwalk could charge in the future," James Tisch, Loews president and CEO said during the company's April 30 earnings call. Executives at Loews and Boardwalk deferred questions about the potential restructuring process, and repeatedly referred to the Loews Corp. 10-Q filing that details the buyout option.[26]

Additionally, on April 26, 2018 initial comments were filed on the Commission's review of the impact on natural gas pipelines of the TCJA. Below is a table summarizing the comments filed by participants in the docket. Clearly, the regulated asset owners are not satisfied with the Commission's positions in its proposed one-time Form 501-G filing. If the Commission does not materially modify its proposed FERC Form 501-G, it is my opinion there will be more discussion of pipeline operators abandoning the MLP structure.

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[25] http://investor.williams.com/press-release/williams/williams-and-williams-partners-statement-ferc-income-tax-policy-revision

[26] https://platform.mi.spglobal.com/web/client?auth=inherit#news/article?id=44407957&KeyProductLinkType=4&cdid=A-44407957-11052

RM18-11 Comment Summary

American Gas Association
• Pipelines that have recently had rate cases that address the impacts of the TCJA should not need to file Form No. 501-G.
• Requests clarification on reporting of income tax expenses when there is an MLP parent.
• Requests clarification on rate agreements that are based on the pipelines' tariffed rate, the 2015 Policy Statement on Modernization trackers and NOPR compliance filings.
• Request clarification on section 284.123 changes that include:
o Filing trigger
o Timing of the filing
o Impact on the next subsequent five-year rate review.
American Public Gas Association
• Requests clarification that a limited section 4 filing to reduce rates must be made prior to the due date for form 501-G.
• Voiced their support of the commission addressing pass-through ownership structures.
• Suggests the proposal be changed to include pipelines that recover expenses through non-straight fixed variable rates.
• Suggests rate payers be able to comment on this issue.
• Suggests companies under rate moratoria still be required to have an annual review of returns.
• Suggests Congress amend NGA Section 5.
Berkshire Hathaway Energy Pipeline Group
• Suggests the commission complete RM18-12 prior to this decision being finalized, as Form 501-G filers cannot calculate an appropriate pro forma return without knowledge of ADIT treatment.
• Suggests five changes to be made to form 501-G.
Boardwalk Pipeline
• Supports INGAAs proposed edits
• Suggests for future policy changes, regardless of whom benefits from policies enacted (customers or pipelines), recourse rate adjustments should be made.
• Suggests the commission resolve the ADIT NOI either concurrently or prior to the approval of this order, so that companies may file their 501-G's accurately.
• Suggests the Commission continue to leave negotiated rate agreements undistributed.
• Suggests the Commission eliminate the suggested requirement of companies with rate moratoria having to file 501-G's, as this information is adequately represented in annual Form 2's.
• Suggests 501-G filings not permit protests or comments.
• States that the 10.55% ROE for 501-G filings is not substantiated.
• Suggests the commission not require the use of a hypothetical capital structure in 501-G filings.
• Suggest the commission's proposed phrase "Indicated Rate Reduction" instead be called "Indicated Cost of Service Reduction".
Canadian Association of Petroleum Producers
• Voiced their support of the NOPR.
• Negotiated rate pipelines should still be subject to review.
Direct Energy Business Marketing

• Suggest an immediate rate reduction for companies that 501-G's show that rates are unjust and unreasonable.
• Suggest the commission remove Option 4 that would allow companies to file 501-G's and not make any rate adjustments.
Dominion Energy Cove Point LNG, LP
• Suggests DECP should be exempt because it recently had a rate case filing that addressed the tax changes and included a moratorium.
Dominion Energy Inc. Gas Pipelines
• Suggests the commission change the due date of the 501-G's so that they can properly reflect the impact of the ADIT NOI.
• Suggest the change should not be applied to companies under MLPS.
• States that the 10.55% ROE for 501-G filings is not substantiated and suggests a different ROE be permitted.
• The section 4 option should include a moratorium on section 5.
• Prepackaged settlements filed should not have to be uncontested.
• The deadline to file a rate case or uncontested settlement should be extended past December 31, 2018.
• Companies under rate moratorium or a settlement that requires a cost and revenue study or section 4 filing, should not have to file 501-G's.
Eastern Shore Natural Gas
• Suggests it should be exempt because in a recent settlement it accounted for the tax adjustment.
Enable Gas Transmission
• State that the NOPR exceeds the commission's authority under NGA sections 10 and 14.
• States that because the 501-G is an informational filing, protests should not be permitted.
• States that the NOPR unfairly alters the burden of proof on the company.
• States that the 10.55% ROE for 501-G filings is not substantiated and suggests a different ROE be permitted.
• States that if the commission will require the company to show a different capitalization structure then it must show that the previous one was unjust and unreasonable.
• States the commission has not shown that non-C corporations should have their income tax allowances disallowed. Each company should be looked at individually.
• States the commission has not shown double recovery of income tax earnings occurs if the pipeline uses DCF.
• States the commission does not consider the negative impact and increased risk the NOPR could have on pass through companies.
Hampshire Gas
• Suggests companies with automatic adjustments for the decrease in taxes should not be required to file. Hampshire Gas reduced its rates to account for this change on January 1, 2018.
Hess Corporation
• Supports the comments filed by the Indicated Shippers.
Industrial Energy Consumers of America
• Supports the NOPR and suggests companies that do not decrease rates must provide appropriate justification.
• Suggests the commission write to Congress to amend section 5 to give the Commission refund authority.

The Indicated Shippers
• Negotiated contracts should be subject to review and revision.
• Suggests companies that do not decrease rates must provide appropriate justification.
• Companies under rate moratoria should not be exempt from review.
• Proposes several data additions to form 501-G to increase clarity.
The Interstate Natural Gas Association of America (INGAA)
• Suggests the NOPR should not impact the income tax allowance for MLP's and that it should only focus on the impact of the TCJA.
• States that the RPS is inappropriate in this proceeding. It does not account for different rate making methodologies and did not follow the proper notice-and-comment rulemaking procedure.
• Suggests that all pipelines should be able to file for reasonable income tax allowances in future rate cases.
• Suggests non-MLP pipelines should not have to file additional justification to keep their income tax allowance.
• The commission should resolve ADIT before finalizing a ruling on this order.
• Companies that file pre-packaged settlements or section 4 rate cases should be granted additional time for filing.
• Pipelines with rate case moratoria should not have to file 501-G's.
• Pipelines with recent settlements that adjust for the changes in taxes should not have to file 501-G's. Likewise, customers that filed after the enactment of the TCJA should be exempt.
• The section 4 option should include a moratorium on section 5.
• Suggests 501-G filings not permit protests or comments and should not be docketed.
• Suggests the commission clarify that in future rate proceedings decisions will not be prejudiced by the companies choosing to file 501-G's.
• States that the 10.55% ROE for 501-G filings is not substantiated and suggests a different ROE be permitted.
• States that companies should not be required to file alternative capital structures in 501-G.
• Suggest the commission's proposed phrase "Indicated Rate Reduction" instead be called "Indicated Cost of Service Reduction".
• Suggests changes to 501-G that account for multiple parent companies change wording on page 3 of Form 501-G to "per pipeline".
Independent Oil & Gas Association of West Virginia, Inc.
• Supports section 4 of the NOPR.
• Suggests negotiated rates should not be exempt from reduction, including those based on Cost of Service.
• Supports the NOPR and suggests companies that do not decrease rates must provide appropriate justification.
Kinder Morgan Entities
• States that 501-G is not an adequate document for determining the need for rate reductions.
• States that the proposed changes create uncertainty in the market and harm pipelines' ability to provide an adequate return to their investors.
• States that the 501-G does not serve as a safe method of adjusting rates, as it requires:
o Denying income tax allowance for non-MLP's.

o Using a commission specified capital structure.
o Using a commission specified ROE of 10.55% which is unjust and unreasonable.
• Because 501-G dictates these choices, it is unfair to use 501-G's to determine if a pipeline's rates are unjust and unreasonable.
• Suggests companies be given flexibility on whether to file a 501-G and if so, what to file.
• Suggests ADIT NOI be finalized prior to the finalization of this proceeding, so that they can properly reflect the impact of it in the 501-G filing.
• Suggests companies with rates currently being examined, settlements with moratoria, cases filed after the TCJA or that choose Option 2 should not need to submit a 501-G.
• Suggests that pipelines that make a limited section 4 filing should not be subject to a section 5 investigation of their rates for at least three years. In addition, they should not have to file page 3 of 501-G.
• Suggest extending the due date for an uncontested settlement or section 4 rate filing from December 31, 2018 to a later date as it is currently unduly burdensome.
National Fuel Gas Supply Corporation and Empire Pipeline Inc.
• Suggests pipelines with moratoriums and Comeback provisions should not need to file 501-G's.
• Suggests the commission complete RM18-12 prior to 501-G filings being due.
• Requests clarification that variations from 501-G be allowed to better work with companies' financial data.
Natural Gas Supply Association
• Supports making edits to pipeline rates to account for tax changes.
• Supports how the NOPR approaches the issue.
• Suggests the commission ignore any attempts to delay the order.
• Suggests companies not be able to "take no action" after filing 501-G's under section 4.
• Suggests negotiated rate contracts not be exempt from these changes.
• Suggests companies that choose option three be subject to commission review.
NiSource Distribution Companies
• Suggests that immediate rate reductions are not appropriate if there was a recent settlement or moratorium.
• Agrees that this methodology allows adequate pass through to customers and generally supports the NOPR.
Oklahoma Attorney General
• Agrees that this methodology allows adequate pass through to customers and generally supports the NOPR.
• Suggests FERC reduce the time-period for 501-G filings and the final rate cases.
• Suggests the FERC create some sort of refund procedure until the effects of the TCJA are resolved.
• Suggests amortization of excess ADIT be included in 501-G.
Process Gas Consumers
• Suggests all pipelines must file 501-G's within 28 days of the final ruling.
• Believe earlier filings of 501-G's will allow shippers to prepare settlements quicker.
• Suggest that pipelines be required to indicate up front which option they plan to follow, as an effort to speed up proceedings.
Range Resources
• Suggests the commission find all rates that do not reflect the reduction from the TCJA unjust and unreasonable.

• Suggests negotiated rate contracts be included in the proceedings.
• States that the delay in the proceedings are unreasonable and are allowing pipelines to benefit while shippers are harmed.
• Suggests the schedule for filing should be tightened up. The Commission should act:
o Within 28 days of Group 1 filing.
o Within 56 days of Group 2 filing.
o Within 84 days of Group 3 filing.
o Within 112 days of Group 4 filing.
Southern Companies
• Suggest all companies not involved in active Section 4 or 5 cases should have to submit 501-G's. Companies with active settlements should not be excluded.
• Suggest that companies that do not plan to make a section 4 filing after submitting their 501-G should need to explain why a rate case is not needed.
Southern Star Central Gas Pipeline Inc.
• States that the Commission does not have authority to request 501-G's as they are too onerous to be considered an "informational filing". The 501-G effectively requires companies to justify their current rates.
• Suggest that the Commission not permit comment and intervention on 501-G's as that is not in line with them being informational filings.
• Suggests that the Commission not intervene in cases were rates have been established in a negotiated rate settlement.
• States that Form 501-G does not reflect if rates are just and reasonable and will lead to under-recovery.
• Suggests that ADIT issues must be resolved before the 501-G filing requirement.
• Suggests that any savings from the TCJA should be allowed to be reinvested into the systems as it is a more efficient use than flowing the savings back to customers.
Spectra
• Suggests the commission change the due date of the 501-G's till after the ADIT NOI is finalized, so that they can properly reflect the impact of it.
• Suggests that 501-G should not be subject to comments or protest and that it should not be allowed to be used in future rate proceedings against the company.
• Suggest that companies with an active settlement moratorium in place should not be subject to intervention.
• Suggest that companies that are pass-through entities be allowed to recover an income tax allowance.
• States that the 10.55% ROE for 501-G filings is not substantiated and suggests a different ROE be permitted.
• Suggests 501-G should be restructured to account for joint-venture pipelines.
• States that if inputs for 501-G are consistent with pipelines' current rates they should not be required to justify them.
Tallgrass Pipelines
• Suggests ADIT NOI be finalized prior to the finalization of this proceeding, so that they can properly reflect the impact of it in the 501-G filing.
• Suggest extending the due date for an uncontested settlement or section 4 rate filing from December 31, 2018 to a later date as it is currently unduly burdensome.
• Suggests that companies with settlements that have come-back provisions or moratorium provisions should be exempt from the filing.
• Suggest that companies that are pass-through entities be allowed to recover an income

tax allowance.
• Suggests that 501-G should not be subject to comments or protest and that it should not be allowed to be used in future rate proceedings against the company.
• Suggests the Commission clarify that companies filing a limited section 4 filing should not only be constrained to data from the 501-G.
• Prepackaged settlements filed should not have to be uncontested. Opposition from negotiated rate shippers and unaffected parties should not count as being contested.
• Suggests the Commission clarify that 501-G's will not be allowed to be used in future rate cases against the pipeline.
• States that the 10.55% ROE for 501-G filings is not substantiated and suggests a different ROE be permitted.
Texas Railroad Commission
• States it will follow a similar process as that proposed in the NOPR.
Williams Companies, Inc.
• Suggests that companies with settlements with moratorium provisions should be exempt from the filing. Likewise, companies that have recently filed rate cases that address the tax adjustments should be exempt.
• Suggests that 501-G should not be subject to comments or protest.
• Suggests that pipelines that make a limited section 4 filing should not be subject to a section 5 investigation of their rates for at least three years.
• Suggests ADIT NOI be finalized prior to the finalization of this proceeding, so that they can properly reflect the impact of it in the 501-G filing.
• Suggests the Commission clarify that the 10.55% ROE is only illustrative and not binding.
• Suggest that companies that are pass-through entities be allowed to recover an income tax allowance and not need to justify it in the 501-G. Furthermore, the pipeline should not be required to justify its rates in an informational filing.
LDC Coalition (Xcel, Colorado Springs and Alliant)
• Suggests the Commission provide more clarification on the rights of interested parties to comment on 501-G's as well as further details on the potential proceedings.
• Suggests that the 501-G should not qualify as a recent rate review for purposes of the Modernization Policy statement.
• Suggests the Commission clarify that filing a limited section 4 filing should not satisfy come-back provisions.
• Suggests the implementation guide for 501-G be included in the final ruling.
• Suggests there should be a follow-up process specified for those pipelines that have settlement moratoria or come-back provisions and are not required to file a Section 4. This should include:
o Plans for recovery after the moratorium period
o The definition of "near future" regarding the come-back provision.
• Suggests that pipelines be required to explain their process for calculating ADIT given the current NOI.

SECTION 8: CONCLUSIONS

Based on our research and analysis, Concentric offers the following conclusions regarding the impacts of the TCJA on natural gas pipeline regulation at FERC:

- The Commission is actively, as well as transparently as possible, addressing the TCJA impact on natural gas pipeline/storage asset operators.
- The Commission's history should be the foundation for customer expectations on changes related to the TCJA.
- The South Georgia Methodology established in NGPL in 1980 will not be modified since tax normalization rules still dictate amortization rules.
- Order No. 144 and the implementation of SFAS 109 will be the driver for the accounting needed to capture the changes related to the TCJA.
- There is a chance that FERC calculates or establishes a carrying charge mechanism for the timing difference between the effective date of the TCJA (January 1, 2018) and the next rate proceeding.
- The Commission's elimination of an income allowance for MLPs and assuming a 0% federal income tax rate for future deferred tax liabilities is the most controversial aspect of the Commission's March 15, 2018 orders.
- The pressure being applied to the Commission from MLPs and industry associations could force FERC to examine additional ownership structures as they relate to a potential income tax liability and thus the inclusion of a federal income tax allowance.
- If FERC decides to address the ownership structures on a case by case basis, there could be an uptick in rate cases to address additional ownership structures and whether the facts provide support for the inclusion of an income tax allowance.
- The FERC Form 501-Gs will provide great insight into which pipelines are winners and which are losers.
- Rate cases (Section 4 and Section 5) could dominate the industry for the coming years.
- Shippers need to capture the potential value as soon as possible due in part to anticipated push by pipelines for higher return on equities as well as the amortization of excess ADIT.
- Comments on the FERC Form 501-G could lead to different shipper groups with different interests left fighting over any potential savings from the TCJA. If FERC allows each negotiated rate contract to be evaluated for a potential negative surcharge, max rate customers may see less value for the TCJA.
- Section 5 of the NGA needs refund provisions to match the FPA.
- The Commission's review of its 1999 Certificate Policy Statement timing may also impact how the Commission moves forward in RM18-11 and RM18-12.