



Federal Energy Regulatory Commission
July 19, 2018
Open Commission Meeting
Staff Presentation
Items: A-3

"Good morning Mr. Chairman and Commissioners,

"Yesterday, the Commission issued a Final Rule adopting procedures for determining which jurisdictional natural gas pipelines may be collecting unjust and unreasonable rates in light of the effects of the Tax Cuts and Jobs Act and the double recovery issue identified by the D.C. Circuit's United Airlines decision. The Commission also issued an Order on Rehearing of the Revised Policy Statement on Treatment of Income Taxes in Docket No. PL17-1.

"As a result of the Tax Cuts and Jobs Act, which was signed into law by President Trump on December 22, 2017, all interstate natural gas pipelines subject to federal corporate income taxes will be subject to a flat 21 percent tax rate. Because most interstate natural gas pipelines charge cost-based rates, the tax cut may decrease those pipelines' costs of service. In March, the Commission issued a Notice of Proposed Rulemaking to facilitate the pass-through of those tax cuts.

"The Final Rule adopts, with some modifications, the procedures proposed in the Notice of Proposed Rulemaking. The Final Rule establishes a requirement that all interstate natural gas pipelines file an informational filing with the Commission (referred to as FERC Form No. 501-G). However, the Final Rule makes certain adjustments to the FERC Form No. 501-G. For example, if a pipeline owner is not a tax-paying entity, the FERC Form 501-G will not only enter a federal and state income tax of zero but also eliminate Accumulated Deferred Income Taxes (ADIT) from the pipeline's cost of service. The Final Rule also allows a pipeline company to include an addendum to the FERC Form No. 501-G, if necessary, to explain the contents of its form.

"In addition to the Form 501-G filing requirement, the Final Rule provided four options for each interstate natural gas pipeline to make a filing to address the pipeline's recovery of tax costs. The four options are as follows: (1) file a limited NGA section 4 filing to reduce the pipeline's rates to reflect the new tax law and the Commission's income tax allowance policies, (2) make a commitment to file a general NGA section 4 rate case or pre-packaged settlement in the near future, (3) file a statement explaining why an adjustment to its rates is not needed, or (4) take no action other than filing the One-time Report. The Final Rule modified the NOPR proposal so as to permit MLP pipelines opting to make limited section 4 filings to either (1) eliminate their tax allowance and their ADIT, or (2) reflect only the tax reductions in the Tax Cuts and Jobs Act.

"The modification to ADIT relates to a clarification that the Commission provided in the Order on Rehearing in Docket No. PL17-1. Specifically, that order provided guidance that, if an MLP or other pass-through pipeline eliminates the income tax allowance from its cost of service, the Commission anticipates that ADIT similarly will be removed from the cost of service, to avoid running afoul of the prohibition against retroactive ratemaking. Furthermore, in the Final Rule, the Commission did not require MLP pipelines to eliminate their tax allowances. The Final Rule also clarified that a natural gas company organized as a pass-through entity is eligible for a tax allowance if all of its income or losses are consolidated on the federal income tax return of its corporate parent.

"Additionally, in order to provide a further incentive for pipelines to make a limited NGA section 4 rate reduction filing, the Final Rule includes a guarantee that the Commission will not, for a three-year moratorium period, initiate an NGA section 5 rate investigation of a pipeline that makes such a filing, if that pipeline's FERC Form No. 501-G submitted with a limited section 4 filing shows an ROE of 12 percent or less.

"Thank you. This concludes our presentation. We are happy to answer any questions that you may have."