



STATEMENT

Statement of Commissioner Neil Chatterjee on Order on Rehearing of the Revised Policy Statement on Treatment of Income Taxes and Tax Cuts and Jobs Act Final Rule

Date: July 19, 2018

Item Nos.: A-3
Docket Nos. PL17-1-001,
RM18-11-000

"Thanks very much to staff for their informative presentation. I want to echo my fellow Commissioners' praise for staff's hard work on our tax-related issuances: we have asked and will continue to ask a lot from you.

"I supported yesterday's orders because the balance they strike improves upon our March effort to ensure the timely flow to ratepayers – and ultimately, consumers – of the benefits of the Tax Cuts and Jobs Act and United Airlines. Voluntary rate reductions and settlements between pipelines and their customers are the fastest ways ratepayers will see those benefits. Natural Gas Act section 5 proceedings can take a year or more to complete, and the lack of section 5 refund authority means those proceedings only yield benefits to ratepayers on a going-forward basis.

"I am confident that yesterday's orders markedly improve the prospects for voluntarily rate reduction and settlement:

- The Final Rule provides powerful incentives for a pipeline to voluntarily reduce its rates. In particular, it provides for a three-year moratorium on Commission-initiated section 5 investigations should a pipeline voluntarily agree to reduce its rates to reflect the Tax Cuts and Jobs Act or the United Airlines decision so that its total ROE is at or below a 12 percent threshold value.
- And the Final Rule and the Order on Rehearing should help ensure that there is less distance between the starting positions of pipelines and their ratepayers as they enter settlement negotiations. The Final Rule adjusts the information requirements related to pipelines' Form Number 501-G submissions to ensure that the information submitted with those documents can better reflect their actual financial conditions. Meanwhile, the Order on Rehearing reduces regulatory uncertainty for pipelines and their ratepayers surrounding the Commission's treatment of ADIT following the United Airlines decision.

"Importantly, the Final Rule preserves the backstop provided by ratepayers' right to bring section 5 complaints based on the information pipelines submit in their Form Number 501-Gs.

"So we've struck a better balance than we did in our March tax orders, but I recognize that it's not a perfect solution. In my view, we could have further improved the prospects for settlement or voluntary rate reduction by also addressing the rehearing requests in the United Airlines remand proceeding or resolving more of the issues raised in the Notice of Inquiry in Docket Number RM18-12. Going forward, it will be a personal priority of mine to work closely with my fellow Commissioners and Staff to ensure expeditious Commission action in those proceedings. Similarly, I also remain



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committed to working with my colleagues to make sure that the timing of our issuances in those and other significant, potentially market-transformative proceedings reflect the lessons learned from the market's reaction to the Commission's March issuance of nearly 150 pages of complex, high-consequence tax orders during trading hours. My take-away from that experience was that when issuing orders that can fundamentally alter the landscape, it's good regulatory practice to give affected entities some time to evaluate and digest our decisions by issuing them after the close of U.S. markets."