ENSURING JUST AND REASONABLE PIPELINE RATES: SUGGESTED REFORMS TO PROTECT THE PUBLIC INTEREST AND INCREASE AFFORDABILITY

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EXECUTIVE SUMMARY

On behalf of the US manufacturing sector, the American Forest & Paper Association, Industrial Energy Consumers of America, and Process Gas Consumers Group (collectively, the "Industrial Trade Associations") submit this White Paper to accomplish two objectives: *first*, to demonstrate that the Commission's current framework for adjudicating natural gas pipeline general rate cases under Section 4 of the Natural Gas Act ("NGA") does not ensure just and reasonable rate outcomes, and *second*, to propose concrete reforms for the Commission's consideration to protect the public interest and increase affordability.

Industrial Trade Associations represent end users of natural gas who depend on natural gas as a fuel or feedstock in the manufacturing of products that are vital to the entire US supply chain. US manufacturing industries include national defense, chemicals, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, glass, industrial gases, pharmaceutical, consumer goods, building products, automotive, refining, and cement. Unlike local distribution companies and some other pipeline customers, US manufacturing companies compete in global markets and cannot pass through their increased energy costs to their customers.

Under the current regulatory processes and procedures, a pipeline company can propose rate increases that far exceed the rates that could be supported by adhering to Commission policies and practices. Regardless of how much the proposed rates exceed the rates a pipeline would be willing to settle for, the filed rates automatically go into effect after a brief suspension period. As demonstrated below, pipelines inflate their proposed rates by filing for unreasonable returns on equity ("ROE"), skewed capital structures, reductions in volumes and revenues, inflated depreciation and negative salvage rates, and shifting all discount cost under-recoveries to maximum rate shippers.

This lack of restraint on initial filings forces shippers to pay unjust and unreasonable rates and provides pipelines with substantial leverage over customers in rate cases because the pipeline can set a higher starting point for negotiations and pressure customers into settling at rates unlikely to be just and reasonable. Compounding this problem is the fact that customers pay these inflated rates for months or years during settlement discussions or litigation, which adversely impacts their businesses. The refunds they receive after a settlement is approved or a litigated order is issued, even with interest at the FERC interest rate, cannot compensate for the damage to their businesses and loss of competitiveness experienced in the interim.

As demonstrated in this White Paper, natural gas pipelines use the Section 4 framework to their advantage by inflating their filed rates. In the last two years, the average proposed rate increase has been 89%, with five natural gas pipelines proposing rate increases exceeding 100%. The consequences of these inflated rate increases fall heavily on US manufacturers, who subscribe to firm transportation capacity on nearly every FERC-jurisdictional pipeline in the United States.

The extent of filed rate inflation is confirmed by the differential between filed rates and rates ultimately agreed to by the pipelines in settlement. In the last two years, settled rates reflect an average decrease of 31% from filed rates. Stated differently, filed rates were inflated by 52% in this period relative to the levels pipelines found acceptable in settlement.

The Commission has the authority to correct this imbalance and fulfill its statutory mandate to ensure just and reasonable rates and to protect the public interest in affordable energy supply. Using its authority under Section 16 of the NGA, the Commission should consider the following reforms to level the playing field between pipelines and their shippers:

- Establish a baseline capital structure and ROE level for Section 4 rate filings;
- Require pipelines to calculate motion rates using pre-filed depreciation rates, baseline ROE and equity ratios, and actual updated costs and revenues;
- Require revenue sharing and incentive mechanisms in settlements;
- Require pipelines to bear a share of discounted rate under-recoveries;
- Require pipelines to pay their own rate case costs; and
- Mandate quarterly earnings reports that are comparable to those filed by Canadian pipelines.

These approaches are not novel. The Canada Energy Regulator ("CER") has long-standing practices that include most or all of the measures that will be supported in this paper. The result in Canada has been a high degree of rate stability, many long-term negotiated settlement agreements, and healthy, but not excessive, earnings and returns for the regulated natural gas pipeline industry in Canada.

ENSURING JUST AND REASONABLE PIPELINE RATES:
WHY THE CURRENT FRAMEWORK FAILS AND HOW TO FIX IT

The Industrial Trade Associations respectfully submit that for the manufacturing sector of the US economy, the existing framework for settling and adjudicating natural gas pipeline rate cases is inconsistent with the national priority to build up the industrial base, to not be reliant upon other countries for vital materials, and to reshore jobs and investment. The manufacturing sector supports increased natural gas pipeline capacity and supports a just and reasonable return on equity to maintain and build new pipelines. However, this White Paper demonstrates that the current regulatory process fails to ensure just and reasonable rates, and places unjustified financial burdens on all ratepayers, including US manufacturers, who cannot automatically pass through cost increases to their customers and markets.

As demonstrated below, the current regulatory framework allows pipelines to propose inflated rates that will automatically go into effect after a brief suspension period, creating leverage that pressures customers into settlements above just and reasonable rates. The Commission has the authority to correct this imbalance and fulfill its statutory mandate to ensure just and reasonable rates. Using its authority under Section 16 of the NGA, the Commission should implement the following measures:

- Establish a baseline capital structure and ROE level for Section 4 filings;
- Require pipelines to calculate motion rates using pre-filed depreciation rates, baseline ROE and equity ratios, and actual costs and revenues;
- Require revenue sharing and incentive mechanisms in settlements;
- Require pipelines to bear a share of discounted rate under-recoveries;
- Require pipelines to pay their own rate case costs; and
- Mandate quarterly rate reports with detailed information comparable to those filed by Canadian pipelines as discussed below.

I. Background

Section 4 of the Natural Gas Act requires that all rates charged by a natural gas pipeline for jurisdictional transportation be "just and reasonable," and declares any rate that is not just and reasonable to be unlawful. To change its rates, a pipeline files a general rate case with the Commission proposing new rates. The Commission then suspends the proposed rates for up to five months while it investigates whether the rates meet the statutory standard and sets the case for hearing and settlement procedures.

If the proceeding has not concluded by the end of the suspension period, the proposed rates go into effect automatically upon the pipeline's motion. The pipeline then collects these rates, subject to refund, until the case is resolved through settlement or a final order. While settlements can sometimes be achieved within nine to 12 months after a rate case is filed, a fully litigated rate case usually takes two years or more to be fully concluded.

This legal and regulatory framework creates a fundamental asymmetry. Pipelines can propose any rate they choose, no matter how inflated, knowing those rates will automatically go into effect and generate excess revenue for years while the case proceeds. Shippers, by contrast, have no recourse but to pay these rates, no matter how much economic harm is caused by the excessive rate increases.

The inflated rates filed by pipelines also become the starting point, or ceiling, for ongoing settlement negotiations. The floor, however, is effectively set by FERC Staff's Top Sheets, which are not deflated, but rather are designed to produce just and reasonable rates that reflect Commission policy. Pipelines then push for rate settlements that are at or above the midpoint of the two goalposts, which, by definition, significantly exceed the just and reasonable rates produced by Staff Top Sheets. The result is a playing field skewed in the pipeline's favor from the outset of every rate proceeding.

The harmful consequences for shippers of this rate inflation by pipelines in their Section 4 rate case filings are substantial. Many manufacturers cannot absorb rate increases of this magnitude, which in some cases are tens of millions of dollars per facility above what they previously paid. Unable to bear these financial burdens while awaiting the outcome of a protracted proceeding, shippers are compelled to settle for rates higher than what litigation could reasonably be expected to produce. Manufacturers that endure the inflated rates in the interim may be forced to curtail production, reduce workforce, or defer investment to offset the excessive charges. In testimony filed in a recent rate case, a PGC member explained that the proposed rates "will put further pressure" on the company and "may necessitate ... headcount reductions."[1]

Nor can consumers rely on the local distribution companies to advocate for rate reductions, particularly as to issues involving rate of return. As regulated entities themselves, it would not be in their best interest to advocate for a lower rate of return, which is a key cost driver in these cases. In addition, regulated utilities often lack the incentive to aggressively advocate for lower rates because they are able to pass through the upstream cost increases to their own customers.

The current regulatory framework thus not only fails to protect customers from unjust and unreasonable rates but also undermines the Administration's objectives to protect the public interest and support the growth of domestic manufacturing investment, jobs, and production.

The table below illustrates the magnitude of the proposed rate increases by pipelines in Section 4 rate cases. In the last two years, the *average* proposed rate increase was an appalling 89%. The table also demonstrates the extent of artificial rate inflation embedded in the filed rates of interstate gas pipelines in recent Section 4 rate cases compared to the rates they were willing to accept in settlement.

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[1] *E. Tenn. Nat. Gas, LLC*, Docket No. RP25-844-000, Exhibit No. PGC-0001, at 4 (Jan. 15, 2026) (Prepared Answering Testimony of Jami Arrowsmith) ("Arrowsmith Testimony").

Figure 1 Comparison of Proposed Rates and Settlement Rates

Pipeline	Docket No.	Pre-Filed Rate	Proposed Rate	Proposed Rate Increase	Settlement Rate	% Change from Proposed	% Proposed Rates Inflated
Nothern Natural	RP25-989	$ 17.4170	$ 32.2250	85%	$ 22.5620	-30%	43%
Great Lakes	RP25-855	$ 8.1860	$ 9.1220	11%	$ 6.7660	-26%	35%
ANR	RP25-858	$ 16.0570	$ 36.1876	125%	$ 18.8756	-48%	92%
East Tennessee	RP25-844	$ 8.3500	$ 18.6160	123%	$ 13.8000	-26%	35%
National Grid LNG	RP25-473	$ 0.4842	$ 0.6740	39%	$ 0.5517	-18%	22%
Columbia Gas Transmission, LLC	RP24-1103	$ 0.3496	$ 0.7227	107%	$ 0.4376	-39%	65%
Adelphia Gateway	RP24-1106	$ 2.4628	$ 10.4255	323%	$ 4.0302	-61%	159%
Transcontinental	RP24-1035	$ 0.1319	$ 0.1901	44%	$ 0.1561	-18%	22%
Maritimes & Northeast Pipeline	RP24-780	$ 12.7750	$ 16.5434	29%	$ 11.7865	-29%	40%
Algonquin	RP24-781	$ 8.5927	$ 18.7239	118%	$ 11.8473	-37%	58%
Southern Natural Gas	RP24-744	$ 10.4600	$ 12.6195	21%	$ 9.4000	-26%	34%
Great Basin	RP24-514	$ 10.2507	$ 14.9966	46%	$ 12.6798	-15%	18%
Northern Border	RP24-287	$ 0.0245	$ 0.0264	8%	$ 0.0214	-19%	23%
Carolina Gas Transmission	RP24-164	$ 8.4387	$ 15.6424	85%	$ 10.9900	-30%	42%
Gas Transmission Northwest	RP23-1099	$ 0.2503	$ 0.2961	18%	$ 0.2227	-25%	33%
National Fuel	RP23-929	$ 4.9376	$ 8.6126	74%	$ 6.1350	-29%	40%
Saltville	RP23-930	$ 4.0000	$ 8.4260	111%	$ 5.4318	-36%	55%
Viking	RP23-917	$ 3.8061	$ 6.9226	82%	$ 5.6200	-19%	23%
WBI	RP23-377	$ 9.8417	$ 14.7005	49%	$ 11.3625	-23%	29%
Tuscarora	RP22-1072	$ 7.3305	$ 9.1582	25%	$ 7.1500	-22%	28%
Northern Natural	RP22-1033	$ 13.1450	$ 29.0820	121%	$ 24.9760	-14%	16%
Transwestern	RP22-1031	$ 0.7200	$ 0.8223	14%	$ 0.6561	-20%	25%
ANR	RP22-501	$ 5.7290	$ 9.9181	73%	$ 6.4738	-35%	53%
Eastern Gas Transmission & Storage	RP21-1187	$ 3.8820	$ 6.8266	76%	$ 5.6792	-17%	20%
Southern Star	RP21-778	$ 0.1462	$ 0.2586	77%	$ 0.2150	-17%	20%
Texas Eastern	RP21-1188	$ 12.5420	$ 21.5900	72%	$ 16.8680	-22%	28%
Texas Eastern	RP21-1001	$ 12.5320	$ 21.9620	75%	$ 16.8680	-23%	30%
Kinetica	RP21-760	$ 10.9500	$ 17.3923	59%	$ 15.2844	-12%	14%
Midwestern	RP21-525	$ 1.9223	$ 3.3315	73%	$ 2.4485	-27%	36%
FGT	RP21-441	$ 0.5318	$ 0.6377	20%	$ 0.5150	-19%	24%
Maritimes & Northeast Pipeline	RP20-921	$ 14.9042	$ 19.0216	28%	$ 12.7750	-33%	49%
Columbia Gas Transmission, LLc	RP20-1060	$ 7.0510	$ 12.5950	79%	$ 9.5920	-24%	31%
East Tennessee	RP20-980	$ 6.4630	$ 11.6810	81%	$ 8.3500	-29%	40%
Alliance	RP20-908	$ 10.2500	$ 10.9250	7%	$ 7.8200	-28%	40%
Average				70%		-26%	39%
Average last 2 years				89%		-31%	52%

As this chart shows, the average reduction from filed rates that resulted from settlement negotiations in the last five years was 26%. If only cases filed in the last two years are considered, that reduction increases to 31%.

Considered from the standpoint of the rate inflation contained in pipeline rate filings, the average differential between filed rates and settlement rates is 39% for the last five years, and a stunning 52% for the last two years. This means that in the last two years, pipelines have filed rates that are over 50% higher than the rates that these pipelines considered more than sufficient to cover their costs and provide an acceptable return on their investment, as evidenced by the rates they found acceptable in settlement. This also means that customers were forced to pay rates over 50% higher than they should have been paying for the considerable period of time between the effective date of the suspended rates and the effective date of the settlement rates.

The outcomes for litigated Section 4 cases are similar. For the only three litigated major natural gas pipeline rate cases in the last 15 years, the average reduction from filed rates is 27%, and the average inflation contained in the filed rates is 40%, as shown in the table below.

Figure 2: Comparison of Proposed Rates and Litigated Rates

Litigated Section 4 Rate Cases						
Pipeline	Year Filed	Docket No.	Filed Rate	Litigated Rate	% Reduction Rate	% Proposed Rates Inflated
Panhandle Eastern Pipe Line	2019	RP19-1523	$ 0.2930	$ 0.1935	-34%	51%
El Paso Natural Gas Co.	2010	RP10-1398	$ 13.731	$ 11.794	-14%	16%
Portland Natural Gas Transmission	2010	RP10-729	$ 40.246	$ 26.417	-34%	52%

I. ***<u>Common Mechanisms by Which Pipelines Inflate Filed Rates</u>***

Pipelines inflate their proposed rates through several tactics: proposing skewed capital structures, excessive ROEs, elimination of short-term revenues, underestimates of test period volumes, inflated depreciation rates, and shifting of all under-recovery from discounted rates to maximum rate shippers.

a. Pipelines Propose Excessive Equity in Capital Structure

Pipeline filings frequently include proposed equity capitalization ratios that have been artificially inflated by using cash management funds and other inter-affiliate transactions to increase equity. Pipelines can manipulate capital structure by means of cash infusions from the parent company in the form of paid-in capital or advances from associated companies (FERC Account No. 223), which are then "equitized" to paid-in capital. The example below shows advances from Enbridge, Inc. to East Tennessee Natural Gas ("ETNG") just prior to the end of the test period (October 2025) in its most recent Section 4 case:

Figure 3: Enbridge Advances to ETNG

Enbridge Advances to ETNG			
2019-2025			
		Equity	Account 223
2019		368,350,236	-
2020		377,269,081	-
2021		348,361,553	12,718,619
2022		416,812,227	8,572,044
2023		529,878,504	52,932,267
2024		454,057,679	51,763,618
Aug-25		529,662,000	274,037,809
Oct-25		816,478,432	39,349,497

The transfer of $263 million from Account No. 223 to paid-in capital only a month prior to the end of the test period increased ETNG's equity capitalization by 50% relative to the prior month, entirely at the discretion of the two affiliated entities involved in the transactions.

Pipelines in the last decade or more have consistently proposed equity capitalization in excess of 60% and usually in the vicinity of 65%. As shown below, the average proposed equity ratio in the last two years is 63.2%.

Figure 4: Pipelines' Proposed Capital Structures

Pipeline	**Docket No.**	**Proposed Capital Structure (Equity)**
Eastern Gas Transmission & Storage	RP26-939	64.6%
Nothern Natural	RP25-989	62.4%
Great Lakes	RP25-855	65.1%
ANR	RP25-858	66.0%
East Tennessee	RP25-844	64.2%
National Grid LNG	RP25-473	60.0%
Columbia Gas Transmission, LLC	RP24-1103	65.0%
Adelphia Gateway	RP24-1106	52.6%
Transcontinental	RP24-1035	61.8%
Maritimes & Northeast Pipeline	RP24-780	66.2%
Algonquin	RP24-781	63.9%
Southern Natural Gas	RP24-744	64.3%
Great Basin	RP24-514	56.0%
Average		63.2%

In contrast to these equity ratios proposed by pipelines, the Commission has not approved an equity capitalization in excess of 53% in the last 25 years as shown in the table below:

Figure 5: Capital Structures Approved in Litigation

Litigated Section 4 Rate Cases	Year Filed	Docket No.	Requested equity Cap structure	Approved equity Cap structure	Order
Pipeline					
Panhandle Eastern Pipe Line	2019	RP19-1523	63.29%	51.10%	181 FERC ¶ 61,211
El Paso Natural Gas Co.	2010	RP10-1398	61.00%	46.50%	145 FERC ¶ 61,040
Portland Natural Gas Transmission	2010	RP10-729	55.58%	52.84%	142 FERC ¶ 61,197
High Island Offshore System	2002	RP03-221	60.00%	49.20%	110 FERC ¶ 61,043

Moreover, pipelines' excessive equity ratio proposals create a complete mismatch with the equity ratios of the proxy group companies used to determine the pipelines' allowed ROE in a litigated rate proceeding. As shown below, the average equity ratios of proxy group entities generally used in Section 4 rate cases are 40%, exactly the opposite of the equity ratios proposed by the pipelines themselves.

Figure 6: Equity ratios of Proxy Group Companies

Capitalizatiion Ratios of Proxy Group Members Year-end 2025 (millions of US $)				
Company	Long-Term Debt	Debt %	Shareholder Equity	Equity %
Enbridge Inc.	98,963	61.4%	62,333	38.6%
Kinder Morgan Inc.	30,777	49.7%	31,162	50.3%
National Fuel Gas Company	2,383	43.5%	3,095	56.5%
ONEOK, Inc.	30,755	57.8%	22,485	42.2%
TC Energy Corporation	45,247	62.4%	27,295	37.6%
The Williams Companies, Inc.	27,316	68.1%	12,807	31.9%
Total / weighted average	235,441	59.7%	159,177	40.3%

By deriving ROE from the earnings of more highly debt-leveraged companies carrying greater financial risk than the pipelines to which the resulting ROEs are being applied, the Commission is significantly over-compensating the pipelines for their own underlying risk and cost of equity capital.

b. Pipelines Propose Excessive Rates of Return on Equity

Pipelines routinely request ROEs substantially above any reasonable level. They almost always argue that they have greater business risk than the "broad middle" set of pipelines the Commission considers in ascertaining relative risk for a given pipeline.[2] As Figure 7 below

[2] *See, e.g.*, East Tennessee Natural Gas, LLC Section 4 Rate Case, Docket No. RP25-844-000, Exhibit No. ET-0035 at 14-21 (Apr. 29, 2025) (supporting proposed ROE above the median based on witness' determination that "East Tennessee currently faces overall business risks that are, on balance, greater than the risks faced by the entities included in the East Tennessee Proxy Group").

shows, requested ROEs are almost 20% higher than those the Commission has approved for a major interstate natural gas pipeline in a litigated proceeding.

Figure 7: Proposed and Final ROEs in Litigated Section 4 Rate Cases

Litigated Section 4 Rate Cases						
	Year		Requested	Approved	% Reduction	
Pipeline	Filed	Docket No.	ROE	ROE	ROE	Order
Panhandle Eastern Pipe Line	2019	RP19-1523	14.67%	11.25%	-23.3%	181 FERC ¶ 61,211
El Paso Natural Gas Co.	2010	RP10-1398	12.15%	10.55%	-13.2%	145 FERC ¶ 61,040
Portland Natural Gas Transmission	2010	RP10-729	13.41%	11.59%	-13.6%	142 FERC ¶ 61,197
Portland Natural Gas Transmission	2008	RP08-306	14.75%	12.99%	-11.9%	134 FERC ¶ 61,129
Kern River Gas Transmission	2004	RP04-274	15.10%	11.55%	-23.5%	126 FERC ¶ 61,240
High Island Offshore System	2002	RP03-221	15.25%	11.22%	-26.4%	110 FERC ¶ 61,043
Williston Basin Interstate	1999	RP00-107	14.00%	12.48%	-10.9%	104 FERC ¶ 61,036
Transcontinental Gas Pipe Line	1995	RP95-197	15.25%	12.49%	-18.1%	84 FERC ¶ 61,084
Williston Basin Interstate	1995	RP95-364	14.75%	11.37%	-22.9%	84 FERC ¶ 61,081
Ozark Gas Transmission	1994	RP94-105	17.00%	12.00%	-29.4%	68 FERC ¶ 61,032
Average			14.48%	11.75%	-18.9%	

This excess translates to hundreds of millions of dollars in inflated suspended rates. In the most recent *Panhandle* case, customers paid these inflated rates for over four years before the Commission issued an order.

More recent rate case filings underscore this problem. East Tennessee Natural Gas, LLC proposed an ROE of 14.00%; ANR Pipeline Company proposed 14.54%; EGTS proposed 15.59%. All these ROEs far exceed levels the Commission would approve in litigation based on its current policies on setting a reasonable ROE, yet customers often pay suspended rates based on these inflated ROE figures for years while awaiting resolution of the case.

c. Pipelines Project Lower Volumes and Revenues

Pipelines also inflate rates by underestimating volumes and revenues for the nine-month adjustment period following the base period. Commission regulations permit adjustments for "known and measurable" changes during this period, but pipelines exploit this provision by projecting far lower volumes and revenues, and far higher costs, than actual experience supports. These projections form the basis for proposed rates.

A common tactic is projecting that short-term firm ("STF") transportation, interruptible transportation ("IT"), and Park and Lend ("PAL") services will largely disappear by the end of the adjustment period. This allows pipelines to eliminate all associated revenue and allocate no costs to these services. The table below compares actual base period revenues, as-filed projections, and actual 12-month test period results for the most recent Gas Transmission Northwest ("GTN") general Section 4 rate case.

Figure 8: Example 1 of Underestimating Short-Term Firm Service Revenues

Gas Transmission Northwest Docket No. RP23-1099		Base Period	Test Period	Test Period
Comparison of Actual to Proposed Revenue Credits		Actual	Proposed	Actual
Short-Term Firm Service		$ 10,751,886	$ 4,456,520	$ 21,623,295
Percent of Proposed		241%		485%

Actual 12-month test period revenues for STF were nearly 500% of "projected" adjustment period revenues. Actual base period STF service revenues also exceeded proposed revenues by almost 250%. GTN's unjustified proposed reduction to STF created significantly higher rates that shippers were required to pay while settlement was pursued.

These examples are not isolated. Similar patterns appear in nearly every Section 4 filing, often with no supporting documentation. Pipelines frequently offer only a general justification for eliminating STF, IT, and PAL revenues, claiming that future revenue levels are uncertain or unlikely to remain at current levels.

With respect to overall long-term billing determinant projections, pipelines also regularly project significant reductions during the nine-month adjustment period that do not materialize. These underestimates, while often not as excessive as those for short-term services, nonetheless lead to further inflation of proposed rates above just and reasonable levels. In the recent example from ANR Pipeline shown below, the pipeline's base period reservation volumes were 26% higher than its proposed volumes. While MDQ volumes for the last 12 months of the test period were somewhat lower than base period levels, ANR's projection still caused an unwarranted additional 14% increase in the rates that went into effect subject to refund.

Figure 9: ANR Projected Reduction in Firm Billing Units

		Adj. Period	**Adj. Period**
ANR Pipeline Docket No. RP25-858	**Base Period**	**Proposed**	**Actual**
Transportation Reservation Billing Units	**959,393,783**	**759,859,872**	**865,168,356**
Percent of Proposed	126%		114%

d. Pipelines Propose Artificially High Depreciation Rates

Pipelines also inflate their cost of service by proposing depreciation rates far higher than those currently in effect. As Figure 10 below shows, settled depreciation rates are always at or below pre-filed levels, and proposed depreciation rates are almost 50% higher on average than rates the pipelines are willing to accept in settlement. Depreciation thus becomes an easy bargaining chip that pipelines can concede without reducing their return or income. In fact, lower depreciation rates benefit pipelines by maintaining a higher rate base and preserving higher future returns. Once again, these artificially high depreciation rates produce excessive rates that go into effect subject to refund and create financial hardship for customers.

Figure 10 Comparison of Pre-Filed, Filed and Settlement Depreciation Rates2

Date		Pipeline	Docket No.	Pre-Filed Depreciation Rate	Proposed Depreciation Rate	Settlement Depreciation Rate	% Change from Proposed	% Proposed Rates Inflated
7/1/2025		Nothern Natural	RP25-989	2.49%	3.66%	2.49%	-32.0%	47%
4/30/2025		Great Lakes	RP25-855	1.27%	1.84%	1.27%	-31.0%	45%
4/30/2025		ANR	RP25-858	1.91%	2.40%	1.66%	-30.8%	45%
4/29/2025		East Tennessee	RP25-844	2.00%	2.46%	2.00%	-18.7%	23%
9/30/2024		Columbia Gas Transmission, LLC	RP24-1103	1.50%	3.37%	1.50%	-55.5%	125%
8/30/2024		Transcontinental	RP24-1035	2.04%	2.27%	2.04%	-10.1%	11%
		Average					-29.7%	49.2%

e. *Pipelines Recover All Discounted Rate Revenue Shortfall from Maximum Rate Shippers*

An additional way that pipeline rates are inflated in a Section 4 rate filing is by recovering from maximum rate shippers the full cost of discounts offered to other shippers. This practice, which is currently permitted by the Commission, can increase maximum rate shippers' rates significantly. The extent to which discount adjustments inflate maximum rates depends on the percentage of maximum rates recovered by the discounted contracts.

As an example, if a pipeline discounts 60% of its contracted firm capacity ("MDQ"), and the discounted rates only recover 25% of the applicable maximum rates, then maximum rate shippers will pay 75% of the total cost of service rather than their 40% share. The pipeline bears none of the cost under-recovery and thus has no incentive to maximize discounted rates and minimize the length of the discounted contract terms.

Results of Mechanisms to Inflate Rates

The cumulative effect of these practices—proposing excessive equity capitalization and ROEs, underestimating volumes and revenues, inflating depreciation and other costs, and shifting the full amount of discount under-recoveries to maximum rate shippers—is clear:

- Customers pay excessive rates for years, and while customers will eventually receive refunds plus interest at the Commission's interest rate, these refunds cannot begin to compensate for the lost revenue and economic harm experienced during the period the filed rates were in effect.

- Pipelines gain additional settlement leverage over customers due to the customers' incentive to be relieved of the financial burden of paying excessive rates until the case is resolved.

- Pipelines achieve higher rates in settlement than would otherwise be realized, and earn higher returns prior to settlement rates becoming effective, by collecting funds they must repay only with interest, not at the true cost of capital.

Together, these practices undermine the Commission's core mandate to protect the public interest and ensure just and reasonable rates.

II. Ratepayers' Suggested Remedies

Section 16 of the Natural Gas Act grants the Commission broad authority to "perform any and all acts" and to "prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions" of the Act.[3]

a. Establish Baseline Capital Structure and Return on Equity

The Commission should consider establishing a baseline capital structure and ROE for all pipelines to use in their Section 4 rate filings. This would remove two highly contentious variables from rate proceedings and preclude pipelines from manipulating their capital structures through intercompany cash management programs and other advances of capital. A hypothetical capital structure and baseline ROE, combined with implementing incentive or performance-based mechanisms, discussed below, would allow pipelines the opportunity to recover more than the approved return without imposing excessive rates on pipeline customers.

A baseline of 40% equity and 11% ROE would achieve several beneficial outcomes:

- Remove the existing discrepancy between the equity ratios of the proxy companies used to establish a range of reasonable ROEs and those of the pipelines to which the ROE is being applied.
- Reduce the disadvantage to customers of needing to negotiate downward from an unreasonably high starting point.
- Ensure that filed and suspended rates do not contain inflated returns that create economic hardship and pressure shippers to settle quickly.
- Streamline pipeline rate proceedings and settlement negotiations immensely.

This approach has proven successful in Canada, where the CER applies a deemed 40% equity ratio and 10.1% ROE to all Group 1 pipelines. Both customers and the regulator evaluate the reasonableness of a settlement against these benchmarks, and the policy has eliminated capital structure manipulation and over-inflated proposed ROEs while streamlining both settlement negotiations and litigated proceedings.

Given that the Commission has recognized the reality that US and Canadian pipelines compete in the same capital markets, there is little justification for allowing US pipelines to routinely achieve significantly higher returns than do their Canadian counterparts.[4] Moreover, companies such as TC Energy and Enbridge, Inc. have significant gas pipeline assets in both Canada and the US, further supporting the integrated nature of the North American gas market.

In addition, some Commissioners have recently issued statements encouraging the Commission to reexamine its policy of approving hypothetical 60% equity ratios for electric utilities, due to concerns about affordability and protection of ratepayers.[5] Given that gas

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[3] 15 U.S.C. § 717o.
[4] *Inquiry Regarding the Commission's Policy for Determining Return on Equity*, 171 FERC ¶61,155 at P 66 (2020). The Commission has also now approved inclusion of both TC Energy and Enbridge, Inc. in a gas pipeline proxy group; see *Panhandle Eastern Pipe Line Company, LP,* 181 FERC ¶61,211 at P 110 (2022).
[5] *See, e.g.*, https://www.rtoinsider.com/135484-ferc-commissioners-time-to-revisit-60-40-capital-structure-in-rates/

pipelines routinely request equity ratios much greater than 60%, it would seem the time is ripe to reexamine the reasonableness of their equity ratios as well. The concerns about fairness and affordability are just as urgent in the regulated gas pipeline industry as they are in the electric utility industry.

b. Require Motion Rates to Use Updated Actual Costs and Revenues

Pipelines are required to make a motion rate filing to move the suspended rates into effect at the end of the suspension period.[6] The Commission already requires that such motion rate filings include an update to gas plant in service costs to replace the projected amounts in the rate filings with actual amounts at the end of the test period.[7]

The Commission should apply this same requirement to other aspects of the rates, including operation and maintenance costs, administrative and general costs, property taxes, depreciation, rate design throughput, contract levels, and revenues credited to the cost of service for STF, IT, and PAL. The same principle for updating gas plant costs applies with equal, if not greater, force to the other elements of the cost of service that are subject to unsupported adjustments and manipulation by the pipelines in their rate filings.

Pipelines should be required in their motion rate filings to use the most recent actual costs and contract levels, plus pre-filed depreciation rates, to calculate the rates that will go into effect subject to refund. The pipelines would still be free to support their as-filed case, but customers would not be burdened and unduly pressured by having to pay exorbitant rates while they engage in settlement negotiations with the pipeline or consider pursuing litigation.

c. Implement Revenue Sharing Mechanisms for Over-Recovery

Requiring pipelines and their shippers to find equitable incentive mechanisms to include in a settlement agreement would significantly increase the fairness of the Section 4 rate process. In Canada, these mechanisms protect both pipelines and their customers from significant over- or under-earnings that result from settlement agreements with fixed rates and no adjustment or revenue-sharing provisions.

All or almost all Group 1 Canadian pipelines have some sort of revenue sharing and incentive mechanisms built into their current long-term settlements:

- The TC Mainline settlement includes an annual incentive mechanism whereby revenues in excess of underlying costs up to an earned ROE of 2.5% greater than the base 10.1% ROE are shared with customers on a 55/45% pipeline/customer ratio, and net revenues greater than that are shared 20/80% pipeline/customer. Under-recoveries are treated in the same manner.

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[6] 15 U.S.C. § 717c(e).

[7] *S. Star Cent. Gas Pipeline, Inc.*, 195 FERC ¶ 61,149, at Ordering Para. (E) (2026) ("Upon its motion to place suspended rates into effect, Southern Star must remove from its rates all costs associated with facilities not in service before the effective date.").

- Alliance Pipeline has fixed tolls with revenue sharing of interruptible and short-term services, and a recoverable cost variance ("RCV") credit or surcharge mechanism for certain components of the cost of service, including pipeline integrity expenses.
- NGTL has fixed tolls called baseline tolls that can be reset every year according to actual costs and throughput for the prior year but also include various incentive mechanisms, such as a provision that requires that if recalculated tolls are less than baseline tolls, a portion of the excess revenue will be attributed to depreciation expense recovery.
- Foothills has fixed annual tolls based on projected costs that are trued up in the next year's rates for any over- or under-recovery of actual costs, using a 40% equity capital and 10.1% ROE assumption. Because revenues are trued up each year, the 10.1% ROE becomes the actual ROE earned by the pipeline.

Protecting pipelines from under-recoveries reduces their risk, which lowers the ROE they need to request. This change would also allow settlement terms to be much longer, reducing the regulatory burden on pipelines, their customers, and the Commission's staff.

Incentive-based regulatory mechanisms have long been used in other countries besides Canada and are being introduced for electric utilities in a growing number of US states.[8] They offer significant benefits to both the pipelines and their customers, and would go a long way toward protecting ratepayers from excessive pipeline rates.

d. Require Risk Sharing for Discounted Rates

The Commission should require pipelines to demonstrate the appropriateness of rate discounts that have not been reviewed in the last rate case and require pipelines to bear a portion of the cost under-recovery associated with discounted rates. Without these measures, pipelines have little or no incentive to negotiate the highest possible rates, shortest contract terms, or most favorable provisions when offering discounts because they can shift the entire under-recovery to maximum rate shippers potentially for decades regardless of the then-current demand for and pricing of pipeline capacity. Requiring pipelines to justify older discounted contracts and to absorb 20% of discounted rate under-recoveries would align their interests with those of maximum rate customers and encourage more disciplined discounting practices.

e. Require Pipelines to Pay Their Own Rate Case Costs

The Commission's current practice of requiring customers to pay the pipeline's costs of preparing, supporting, and prosecuting a rate case containing costs significantly in excess of just and reasonable levels, as shown above, is unfair and counterproductive. Pipelines are incentivized to spend greater and greater sums of money on lawyers, consultants, and other witnesses to produce reams of testimony that require more and more time and energy on the part of the Commission Staff and intervenors to wade through, digest, and evaluate. Pipelines have no reason to limit their filings to what is necessary and helpful or to conduct efficient settlement procedures involving substantive settlement moves and timely responses. Rather, the pipelines

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[8] *See, e.g.*, https://ceepr.mit.edu/the-expansion-of-incentive-performance-based-regulation-of-electricity-distribution-and-transmission-in-the-united-states/

are perversely incentivized to drag out settlement negotiations as long as possible, making only token rate reductions with each settlement offer and taking a month or longer for each response. It has become common for pipelines to object to every single data request propounded by an intervenor, escalating ratepayers' own legal and consulting costs in the process. Pipelines have no accountability for these practices, and no economic incentive to curb them.

The only fair and equitable solution to these problems would be to have ratepayers and pipelines each bear their own rate case costs. This change would dramatically reduce the time, resources, and burden on the ratepayers now needed to actively participate in a rate case. It would also provide necessary incentive for pipelines to file concise, efficient rate filings and conduct meaningful settlement negotiations.

Several US states have either already implemented or are considering similar measures to this proposal. Even sharing rate case costs 50-50 between the pipeline and its customers would be a significant improvement over the current situation.

f. Require Earnings Reports

The Commission should require pipelines to file quarterly reports showing actual costs and earnings compared to those underlying the pipeline's existing rate methodology. These reports should be directly tied to the methodologies used to derive rates. On the first page, the report should show actual costs, costs underlying the rates in effect, the variance between them, and the actual earned ROE for the period. This format would allow customers and the Commission to readily ascertain pipeline performance relative to approved rates.

The supporting schedules included in these reports should provide additional detail on cost and revenue components to enable parties to understand where and why variances occurred. The reports should also include derivation of any rate adjustments from incentive mechanisms, notes explaining significant variations in cost or throughput, and any other financial information relevant to rate derivation. This approach has proven effective in Canada, where quarterly Surveillance Reports give customers and regulators transparency into pipeline earnings and enable timely identification of over- or under-recovery. A sample report for the TCPL Mainline System is attached hereto as Exhibit 1.

While FERC currently requires pipelines to file quarterly Form 3Q reports, the information in these reports cannot be readily distilled into any meaningful assessment of how the pipeline is performing relative to its approved rates. A cost of service must be laboriously reconstructed from dozens of different pages, and even then, the amounts cannot be assumed to be correct given differences between amounts reported for certain accounts and amounts used in designing rates. The proposed quarterly reports would address these deficiencies by providing a clear, standardized format that directly ties to rate methodology and would help the Commission ensure that rates remain just and reasonable. They would also reduce the burden on intervenors and the Commission Staff in Section 5 proceedings where they must demonstrate that the pipeline is over-recovering in order to place lower rates into effect prospectively.

III. Summary

These recommendations would provide certainty, stability, and just and reasonable rates for long periods of time. As discussed herein, many of these mechanisms have been adopted in Canada, and as a result, all but one Group 1 pipeline in Canada have a long-term negotiated rate settlement in place, ranging from four to over 30 years. These settlements share key features: pipeline rates are derived on a 40% deemed equity capital ratio and a 10.1% ROE; rates are based on actual expenses, throughput, and agreed depreciation rates; and rates have true-up provisions, incentive mechanisms, and revenue sharing that benefit both pipelines and customers. These features enable rapid regulatory approval by the CER, sometimes within a month, and durable agreements averaging over ten years, as shown below:

Figure 11: Canadian Natural Gas Pipeline Data

Canada Group 1 Pipeline Data					
			Capital structure: equity	**Earned ROE 2025**	**Settlement in Effect**
TC Canada Mainline			40.0%	17.0%	2015-2030
Westcoast Energy			40.0%	10.1%	2023-2026
M&NP Pipeline			40.0%	11.2%	2026-2027
Alliance Pipeline			40.0%	68.3%	2025-2035
Foothills System			40.0%	10.1%	2003-2032
NGTL System		1/	40.0%	10.5%	2009-2029
1/	Revenue requirement settlement (rate design settlement has no end date)				

Summary of Recommendations

No regulatory system is perfect; every regulatory system could be improved. But the FERC's current regulatory framework for rate filings made under Section 4 of the Natural Gas Act does not ensure just and reasonable rates. The reasons for this have been discussed herein and include:

- Allowing whatever rates are filed by a pipeline to automatically go into effect after a suspension period, with only one minor requirement to match filed gas plant in service costs to actual costs prior to implementation.

- Allowing pipelines to propose any amount of equity capitalization and any ROE, no matter how high or what the resulting financial burden is on price-sensitive ratepayers such as manufacturing companies and small municipalities who cannot pass the rate increases on to their customers.

- Institutionalizing over-earnings by pipelines and unduly shortening settlement periods and rate moratoriums due to the absence of revenue sharing and other incentive mechanisms that would protect all parties during the period settlement rates are in effect.

Reforms are needed to increase fairness and affordability, speed resolution of cases, and increase transparency. As discussed more fully in this paper, there are several remedies available to the Commission that could be readily implemented and would dramatically improve the fairness, transparency, efficiency, and outcomes of Section 4 rate case filings. These include:

- Require pipelines to calculate motion rates using pre-filed depreciation rates, a baseline 11% ROE and 40% equity capitalization, actual operation and maintenance costs, administrative and general costs, property tax costs, throughput, contract levels, and revenues credited to the cost of service for STF, IT, and PAL.

- Require pipelines to bear 20% of the under-recovery cost of discounted rate contracts when allocating costs and designing rates in their Section 4 rate filings.

- Require pipelines to negotiate and include in settlements revenue sharing arrangements and other incentive mechanisms to benefit and protect all parties and enable settlement terms to be significantly longer than they are now.

- Require pipelines to pay their own rate case costs.

- Require pipelines to file quarterly rate reports showing actual costs and earnings compared to those underlying the pipeline's existing settlement or litigated rate methodology, derivation of any rate adjustments resulting from incentive mechanisms, notes explaining significant variations in cost and/or throughput during the quarter, and any other financial information relevant to the derivation of rates.

Implementing these reforms would constitute enormous progress toward leveling the playing field between pipelines and their customers, lessening the economic harm to ratepayers resulting from the existing regulatory structure and producing pipeline rates substantially more just and reasonable than those produced under the Commission's current policies and practices.