

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION 2019-05

**ENCOURAGING CONGRESS TO REFORM THE REFUND PROVISIONS OF THE
FEDERAL NATURAL GAS ACT**

WHEREAS, the Natural Gas Act, 15 U.S.C. §§ 717 – 717w, provides the Federal Energy Regulatory Commission (“FERC”) with jurisdiction over the rates, terms, and conditions for the transport of natural gas in interstate commerce; and

WHEREAS, Section 4 of the Natural Gas Act (15 U.S.C. §717c.), which addresses requests by a Natural Gas Company¹ for new or revised rates, allows a Natural Gas Company to retain unjust and unreasonable compensation by limiting refunds to a “refund floor” set at the level of existing rates, such that even if FERC determines at the conclusion of a Section 4 proceeding that existing rates had already been higher than just and reasonable, the Natural Gas Company retains the compensation at existing rates while the case is pending; and

WHEREAS, Section 5 of the Natural Gas Act (15 U.S.C. §717d.), dealing with rate investigations of pipeline rates initiated by FERC and pipeline rate complaints filed with FERC by interested parties, including NASUCA members, only offers rate relief on a prospective basis, such that even if the existing rates are determined by FERC after a years-long proceeding to be unjust and unreasonable, there are no refund dates set and the unjust and unreasonable compensation received during the pendency of the proceeding is retained by the Natural Gas Company; and

WHEREAS, the Natural Gas Act allows a Natural Gas Company to moot an existing Section 5 proceeding at any time, including years after it has begun, by filing its own rate case as a new Section 4 proceeding, and through this procedural maneuver allows a Natural Gas Company to materially delay efforts to reduce existing rates that are claimed to be unjust and unreasonable; and

NOW THEREFORE BE IT RESOLVED that NASUCA hereby urges Congress to take appropriate actions to address, through legislation, reform of the Natural Gas Act so that it provides meaningful and timely opportunities to achieve relief from unjust and unreasonable rates at FERC, including by providing for refunds at the level determined to be just and reasonable in a rate proceeding, by allowing for refunds of unjust and unreasonable compensation to be ordered by FERC for the entire period that a rate complaint proceeding is pending, and by removing provisions that allow procedural maneuvers to delay rate complaint proceedings and rate relief.

BE IT FURTHER RESOLVED that NASUCA hereby authorizes its Executive Committee to develop specific positions and to take appropriate actions, including litigation, consistent with

¹ “Natural Gas Company” means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale.

the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to the resolution.

Submitted by the Natural Gas Committee

Adopted by the Membership

San Antonio, Texas

November 17, 2019