



# AMERICAN PUBLIC GAS ASSOCIATION

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*At each Annual Meeting, the membership of the American Public Gas Association (APGA) reviews and approves the Association's Policy Resolutions. Members are encouraged to participate in the ongoing Committee process to propose changes to continuing resolutions and to bring forth new resolutions that reflect emerging issues relevant to public gas systems.*

The American Public Gas Association exists to provide for the needs of its members. The Association's activities are guided by policy positions memorialized in the APGA Policy Resolutions. APGA maintains permanent, detailed records of its evolving Policy Resolutions. Any APGA member in good standing is eligible to participate in APGA's standing Committees. The Committees are responsible for reviewing the Policy Resolutions throughout the year and for bringing forth suggested amendments to the Policy Resolutions. The APGA staff shall ensure that all APGA members in good standing receive copies of the draft Policy Resolutions at least thirty (30) days before each Annual Meeting. At each Annual Meeting, the membership will vote on adopting the Policy Resolutions as presented. The current Policy Resolutions shall be displayed at all times on the public side of the APGA website.

**Resolutions Pertaining to Pipeline Ratemaking**

**Amendment of NGA to Provide Refund Protection to Gas Consumers (2005 – Amended in 2008 and 2020)**

In 1988, Congress passed the Regulatory Fairness Act, which amended the complaint section of the Federal Power Act (Section 206) to provide for refunds to consumers where successful complaints were brought against public utilities. Despite efforts at that time to get similar treatment for complainants under Section 5 of the Natural Gas Act, Congress deferred any such action for gas consumers (though indicating it was a mere ministerial act that would be resolved in the next Congress). Attempts in the subsequent Congresses to enact legislation that would put gas consumers on the same footing as electric consumers for refund purposes have failed, even though Congress, as recently as the Energy Policy Act of 2005, has enhanced consumer refund protection

under Federal Power Act Section 206. Conversely, under Section 4 of the Natural Gas Act, a pipeline may file with the Federal Energy Regulatory Commission (FERC) to raise its rates when its unit costs are increasing. The pipeline is permitted to collect the new, higher, filed-for rates, after a short suspension period, subject to refund of any part of the rate increase that is ultimately found inappropriate by FERC.

Then, on December 22, 2017, the President signed into law the Tax Cuts and Jobs Act, which, among other things, lowered the federal corporate income tax rate from 35 percent to 21 percent, effective January 1, 2018. This means that, beginning January 1, 2018, interstate pipeline companies computed income taxes owed to the Internal Revenue Service is based on the lower 21 percent tax rate.

Interstate pipeline companies, like all cost-based, regulated utilities, are permitted to include in rates a tax allowance for federal income taxes owed on their returns or profit. The tax rate reduction should result in less corporate income tax expense paid by ratepayers. In January 2018, APGA petitioned the Federal Energy Regulatory Commission (FERC) to take action to reduce recourse rates to account for the lower costs to pipelines, which it estimated would lower firm transportation rates 5-9 percent.

On March 15, 2018, FERC reversed a policy long opposed by APGA that permitted a double recovery of federal income tax costs for pipelines organized as Master Limited Partnership (MLP) and thus an excessive return on equity. FERC's Revised Policy Statement on Treatment of Income Taxes established a new policy that MLPs are not permitted to recover an income tax allowance in their cost of service.

FERC implemented a new regulation requiring interstate natural gas pipelines to make a one-time informational filing in 2018 designed to collect financial information to evaluate the impact of the Tax Cuts and Jobs Act and the Revised Policy Statement on interstate natural gas pipelines' revenue requirement (Form 501-G). In addition to the Form 501-G, FERC proposed that pipelines voluntarily make a filing to address the changes to the pipeline's recovery of tax costs or explain why no action is needed. In that filing, pipeline partnerships and other pass-through entities not organized as an MLP must justify any claim of an income tax allowance.

Because FERC lacks the authority under the Natural Gas Act to establish a suspension or refund date for rate reductions caused by the new tax law and policy, lower rates will become effective only prospectively, most likely more than a year after the change in law, resulting in overcharges as much as hundreds of millions of dollars.

**Whereas**, the Section 5 rate investigations initiated by the Commission since 2009 highlight the shortcomings of the current law, because FERC, which is without power to establish a refund effective date when it commences its investigation, is unable to require pipelines that are charging unjust and unreasonable rates to refund their over-collections at the conclusion of the proceeding; and

**Whereas**, the annual reviews of the Form 2 reports filed by interstate pipelines show that collectively they are over-recovering in the scores of millions of dollars, underscoring the need for an effective complaint procedure under the Natural Gas Act; and

**Whereas**, the 2017 Tax Cuts and Jobs Act, lowered the federal corporate income tax

rate from 35 percent to 21 percent, which means lower costs to pipelines and need for recourse for shipping costs.

**NOW, THEREFORE, BE IT RESOLVED:** That the APGA calls on interstate natural gas pipelines to file immediately to reduce their recourse rates to account for their lower federal income tax rate and the FERC's revised policy on pass-through entities; and

**BE IT FURTHER RESOLVED:** That APGA calls on the FERC to expedite its review of pipeline rates and commence proceedings under Section 5 of the Natural Gas Act to lower rates where necessary; and

**BE IT FURTHER RESOLVED:** That APGA urges Congress to amend the Natural Gas Act to provide for refunds under Section 5 on a basis comparable to the refund provisions of Section 206 of the Federal Power Act, so that consumers have equal protection under both Acts from the assessment of unjust and unreasonable rates by regulated interstate transportation providers: and

**BE IT FURTHER RESOLVED:** That APGA will increase its efforts to reform Section 5 of the Natural Gas Act so that delays in just and reasonable rates such as those created by the 2018 tax rate change will never occur again.

### **Fair Ratemaking on Tax Issues (2019)**

The Federal Energy Regulatory Commission (FERC) made many important tax-related rulings in 2018 and 2019 that dramatically affect the rates that APGA members pay to FERC-regulated interstate natural gas pipelines. On March 15, 2018, FERC reversed a policy long opposed by APGA that permitted a double recovery of federal income tax costs for pipelines organized as Master Limited Partnership (MLP) and thus an excessive return on equity. FERC's "Revised Policy Statement on Treatment of Income Taxes" established a new policy that MLPs are not permitted to recover an income tax allowance in their cost of service in line with the remand from the court of appeals in *United Airlines v. FERC* (2016).

On July 18, 2018, in Docket No. PL17-1-000, the Commission provided "guidance" regarding the treatment of Accumulated Deferred Income Taxes (ADIT) where the income tax allowance is eliminated from cost-of-service rates under the Commission's new policy. ADIT balances arise from timing differences between computing book accounting income used in developing the total cost of service for FERC ratemaking purposes on the one hand, and the method of computing the actual taxes payable to the Internal Revenue Service (IRS) and state governments for the same time period (tax normalization). FERC has held that when the pipeline pays these deferred taxes to the government as a result of a sale of the asset, the ADIT associated with the asset is eliminated (not returned to shippers) even though the funds reflected in these accounts are derived from the rates paid to pipelines and represent millions if not billions of dollars.

In addition, the 2017 Tax Cut and Jobs Act reduced tax payments from 35% collected in the past to paying only at the 21% rate for that liability in the future. This created Excess ADIT that should be flowed back to ratepayers.

FERC's July 2018 "guidance" indicated that "if an MLP or other pass-through pipeline eliminates its income tax allowance from its cost of service pursuant to the post-*United Airlines* policy, the Commission anticipates that ADIT will similarly be removed from the cost of service," and "an MLP pipeline (or other pass-through entity) no longer recovering an income tax allowance . . . *may also eliminate previously-accumulated sums in ADIT from cost of service instead of flowing these previously-accumulated ADIT balances to ratepayers.*" The Commission said that this treatment of ADIT is consistent with (1) FERC and IRS regulations; (2) FERC precedent that shippers do not have an ownership interest in previously accumulated sums in ADIT; and (3) court precedent suggesting that returning the ADIT amounts would violate the prohibition against retroactive ratemaking.

In Order No. 849, also issued in July 2018, FERC made adjustments to the Form 501-G, including automatically eliminating ADIT from a pipeline's cost of service when the form enters a federal income tax of zero for pipelines that are non-tax paying entities, thus determining that pass-through entity pipelines that eliminate income tax allowances from ratemaking calculations may also eliminate ADIT balances. When FERC accepted such Form 501-Gs, it ruled either implicitly or explicitly that the ratepayers of a pass-through entity pipeline that eliminates tax allowances and ADIT balances are not entitled to credits or refunds for any ADIT balances so eliminated.

FERC has observed that the elimination of ADIT, which serves as a no-cost source of financing in ratemaking calculations, would tend to increase rates. One of the largest pipeline companies in fact told its investors that the benefit from the changes related to the removal of ADIT from cost of service is expected to largely offset the income tax disallowance in cost of service rates. Spectra Energy Press Release Aug. 2, 2018. Commissioners LaFleur and Glick filed a concurrence in Order No. 849 expressing "frustration that the rate benefits that customers and shippers would otherwise receive from the Revised Policy Statement may be significantly reduced by the treatment of ADIT announced in today's orders. As a matter of equity, we believe that the arguments for applying previously-accrued ADIT balances to reduce future rate base where a tax allowance is eliminated are compelling."

FERC has long held that accounting rules do not necessarily dictate ratemaking results. On November 15, 2018, FERC issued a Policy Statement titled "Accounting and Ratemaking Treatment of Accumulated Deferred Income Taxes and Treatment Following the Sale or Retirement of Assets" that outlined FERC's policy on the treatment of ADIT for both accounting and ratemaking purposes for natural gas pipelines and oil pipelines. The Policy Statement explains that a natural gas pipeline that continues to have an income tax allowance, any Excess ADIT after December 31, 2017 associated with an asset must continue to be amortized in rates even after the sale or retirement of that asset to return value to the ratepayers. FERC pledged to hear the arguments of ratepayers and pipelines concerning ADIT treatment in individually cases to be decided in the future. FERC then ruled in Opinion No. 511-D on February 21, 2019, concerning an oil pipeline: "ratepayers have no equitable interest or ownership claim in ADIT."

In 2018 many pipeline entities changed their ownership structures and ended their participation in MLPs, often by buying all of the outstanding shares of the interests held by the public in the MLP. The tax and rate ramifications of such transactions are important to APGA members.

**Whereas**, APGA believes ratepayers deserve fair ratemaking on tax issues.

**NOW, THEREFORE, BE IT RESOLVED:** That the APGA calls on FERC to require pipelines to return the value of Excess ADIT to ratepayers; and

**BE IT FURTHER RESOLVED:** That FERC should implement equitable ratemaking policies that are fair to ratepayers who paid rates that produced ADIT account balances, penalize pipelines that may make corporate changes to take undue advantage of tax policies at the expense of ratepayers, and reconsider ratepayers rights to ADIT sums, and modify its accounting policies accordingly.

### **Pipeline Tracker Mechanisms (2015)**

In 2014, the Federal Energy Regulatory Commission released a proposed policy statement that would allow interstate pipelines to recover, through a tracker mechanism, certain capital expenditures made to modernize pipeline system infrastructure to enhance reliability, safety and regulatory compliance. The proposed policy statement identified five standards that must be met in order for a pipeline to utilize a tracker or surcharge. Those standards are: the pipeline's base rates must have been recently reviewed through a Natural Gas Act general section 4 rate proceeding or through a collaborative effort between the pipeline and its customers; eligible costs must be limited to one-time capital costs incurred to meet safety or environmental regulations, and the pipeline must specifically identify each capital investment to be recovered by the surcharge; captive customers must be protected from cost shifts if the pipeline loses shippers or increases discounts to retain business; there must be a periodic review to ensure rates remain just and reasonable; and the pipeline must work collaboratively with shippers to seek their support for any surcharge proposal.

APGA opposed the proposed policy statement as contrary to basic ratemaking principles under Natural Gas Act Section 4, and in addition, APGA pointed out that if the proposed policy statement was adopted, the five standards needed to be strengthened in order to protect consumers from paying unjust and unreasonable rates.

On April 16, 2015, the Commission issued a Policy Statement permitting pipelines to seek to implement a tracker for recovering the costs of modernizing their facilities and infrastructure to enhance the efficient and safe operation of their systems, and explained that any pipeline seeking such a tracker would have to satisfy the five standards adopted in the Policy Statement (which were fundamentally the same as in the proposed rule). The Commission did not adopt APGA's suggested enhancements to the five standards.

**Whereas**, tracking mechanisms have historically been considered by the FERC as inconsistent with Natural Gas Act Section 4 and the regulations thereunder, which are designed to ensure that consumers pay "just and reasonable" rates by examining costs and revenues to determine if the unit cost of doing business has increased; and

**Whereas**, the standards adopted by the Commission in the Policy Statement do not provide consumers the protection afforded under NGA Section 4 from paying unjust and unreasonable rates.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA opposes the Policy Statement permitting pipeline trackers as founded on a misapplication of NGA Section 4, which misapplication is not made acceptable by the five standards included in the Policy Statement; and

**BE IT FURTHER RESOLVED:** That the Commission should revisit and strengthen the five standards along the lines suggested by APGA and other commenters; and

**BE IT FURTHER RESOLVED:** That in applying the five standards on a case-by-case basis, the Commission should apply them strictly, including requiring refunds where overcharges occur, to ensure that consumers are not exposed to paying excessive, unjust and unreasonable rates.

### **Protecting Recourse Shippers from Rate Effects of Altered Pipeline Throughput and De-contracting (2011)**

There is a growing reliance in this country on gas developed from shale deposits located in areas of the country that have not historically been the primary sources of our Nation's gas supply; and due to the changing locations from which natural gas is being sourced, pipeline usage is affected, in some instances substantially reducing the amount of natural gas being transported from traditional supply areas. Interstate pipelines are increasingly filing rate cases to reflect the changing throughput patterns on their systems; and the effect of such filings may be to dramatically increase the financial burden that recourse shippers are asked to bear. In addition, a substantial portion of the pipeline infrastructure built in the United States in recent years has been based upon negotiated and/or discounted contracts between the pipelines and large anchor shippers.

**Whereas,** APGA members have a responsibility to fiscally steward their municipalities' funds, while maintaining adequate supply.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA urges the Federal Energy Regulatory Commission to ensure that to the extent pipelines file for rate increases and/or rate design modifications to reflect changed throughput patterns, including de-contracting, recourse shippers not be asked to bear the financial burden associated with pipeline infrastructure constructed on the basis of negotiated and/or discounted contracts or that is not otherwise properly considered part of the risk associated with recourse service.

### **Resolutions Pertaining to Balanced Energy Solutions (benefiting both consumers and the environment)**

#### **Support for Renewable Natural Gas (RNG) (2019)**

Renewable natural gas (RNG) is the product of capturing and processing methane from waste and biodegradable sources. RNG can be sourced from wastewater treatment, refuse, and farm and agricultural waste. RNG represents a growing percentage of

natural gas in some parts of the United States.

RNG is set to become an important part of the natural gas landscape. RNG can help reduce emissions to a net negative, while providing pipeline quality natural gas to utilities, and it has the potential to equal the other benefits of traditional natural gas. RNG growth provides economic development and infrastructure opportunities for rural public gas system. RNG can also be used for transportation and power generation applications.

**Whereas**, APGA members support increasing the supply of natural gas and the diversity of natural gas sources; and

**Whereas**, APGA members are committed to emissions reduction; and

**Whereas**, APGA members remain dedicated to providing reliable and affordable natural gas service to their customers.

**NOW, THEREFORE, BE IT RESOLVED**: that APGA members will communicate their support, at all levels, for the advancement of RNG technologies and projects insofar as they are consistent with other APGA resolutions and APGA's mission.

### **Environmental Benefits of Natural Gas (2017)**

Public opinion around the world, including in the United States, has trended towards increasing concern about the effect greenhouse gas emissions may have on the world's climate.

National legislative and regulatory policies should recognize the value of natural gas in the overall strategy to reduce carbon emissions and support its use as a clean, reliable, affordable and plentiful domestic energy alternative with quantifiable benefits to the environment.

**Whereas**, protection of the environment is a key priority for APGA members: and;

**Whereas**, APGA members want to provide balanced energy solutions that provide low-cost energy to consumers, with limited impacts to the environment.

**NOW, THEREFORE, BE IT RESOLVED**: APGA will communicate to Congress, the Administration, including appropriate regulatory agencies, the many environmental advantages of greater direct use of natural gas as one of our Nation's primary energy sources; and

**BE IT FURTHER RESOLVED**: APGA will advise these entities of any proposed laws, rules, or regulations that harm American consumers by directly or indirectly diminishing the role of natural gas in our Nation's energy mix; and

**BE IT FURTHER RESOLVED**: Policymakers proposing climate change initiatives should analyze and report on the cost impacts of proposed rules and regulations on the different classes of end-users, as well as evaluate the full life-cycle environmental and social justice consequences of all energy sources; and



**BE IT FURTHER RESOLVED:** That for the American economy, a reliable supply of affordable energy is indispensable for the continued health, welfare, and success of individuals, enterprises, and our Nation as a whole; and

**BE IT FURTHER RESOLVED:** That for American consumers, the direct use of natural gas in homes and businesses reduces demand for other, more carbon intensive forms of energy and results in net carbon emission reductions; and

**BE IT FURTHER RESOLVED:** That for our environment, clean, affordable, domestically-produced natural gas should continue to play a primary role to achieve our goals to reduce emissions in a less carbon intensive, but energy rich future for the United States.

### **Transparency in the Federal Rulemaking Process (2015)**

Every year agencies of the federal government issues new regulations that affect public gas systems. Given the impact of these rules, the procedures agencies use in the rulemaking process are critical. The manner in which the rulemaking process is conducted can affect the quality and the legitimacy of a specific rule. Transparency is a critical component of the rulemaking process because the basis for new regulations must be clear to the public. In addition, adequate notice is a prerequisite of the Administrative Procedure Act.

Transparency contributes to the goals of the rulemaking process by making information more readily available to more people. Increased access by the public to information enables better public participation, which in turn contributes to a more robust rulemaking process. Transparency also is important as it allows the public to serve as an effective check on the regulatory system and helps safeguard against regulators pursuing policies that may not be consistent with the public interest and their enabling statutes.

**Whereas**, APGA is familiar with rulemaking proceedings in which the agency proposing a new rule has relied upon complex and opaque technical data to support the proposed rule and been reluctant to share with the public the underlying inputs to the technical data; and

**Whereas**, APGA is familiar with rulemakings in which the agency proposing a new rule has relied on proprietary data in its technical support, despite the fact that the proprietary data could only be acquired by the general public at a substantial cost and even then would be subject to confidentiality limitations.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA favors policies that ensure the federal government is transparent in its rulemaking proceedings, provide full and timely access to all relevant data, answer all questions regarding the inputs to technical support data, and does not rely on proprietary data unless that data is made available to the public at no cost and without limitations as to its use in the rulemaking.

### **Direct Use of Natural Gas (2015)**

Natural gas is America's fuel for the 21st Century because it is reliable, clean, domestic, abundant, and affordable. This premium fuel is provided via an efficient production and delivery network.

No longer viewed as just a bridge fuel, natural gas is now accepted as a foundational fuel for America through the 21<sup>st</sup> Century. Over the last few years, when natural gas surpassed coal as the largest source for electric generation, environmental interests began to attack natural gas after having supported its use. This is provoking a shift in America's acceptance of natural gas as the smart and strategic energy source to drive our nation's economy forward.

Although the U.S. is producing record quantities of low-cost natural gas and many consumers are converting from other fuels to natural gas, the direct-use of natural gas in homes and businesses is facing an increasing number of challenges on several fronts. Most disconcerting is the mixed message from policymakers. On one hand, they tout the benefits of natural gas and the important role it is playing in America's economy; on the other, certain federal agencies and states promulgate rules or enunciate policies that either discourage the direct use of natural gas or promote fuel switching away from natural gas. Such fuel switching leads to higher costs to consumers, greater emissions, and less efficient use of America's primary energy resource – natural gas. Another challenge to natural gas direct use is coming from those who seek to influence consensus codes and standards bodies to adopt requirements that promote the use of electric technologies over natural gas technologies.

**Whereas**, the direct use of natural gas on a primary energy basis is 92 percent efficient; and

**Whereas**, the direct use of natural gas faces challenges that fail to account for the fact that natural gas is one of the cleanest, safest, most abundant, affordable, and useful of all fuels; and

**Whereas**, substituting natural gas for other fuels reduces pollutant emissions that produce smog, acid rain, and exacerbate the greenhouse effect. For example, using natural gas-fired water heaters for homes instead of electric resistance water heaters ultimately reduces greenhouse gas emissions by one-half to two-thirds; and

**Whereas**, the direct use of natural gas is being cited and promoted by multiple local jurisdictions as a way to ensure energy reliability and energy security in response to both weather events and terrorist attacks; and

**Whereas**, in addition to the environmental and security benefits afforded by the direct use of natural gas, the economic potential associated with this domestic energy resource provides APGA members the ability to offer a lower cost product that provides consumers a competitive edge in both national and international markets.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA supports legislation and regulation that encourage the direct use of natural gas and opposes legislation and regulation that would have the opposite effect.

## **Energy Efficiency in Federal Buildings (2013)**

Energy efficiency programs reduce energy costs for U.S. consumers and reduce pollution. APGA supports energy efficiency. The greater efficiency of the direct use of natural gas (on a source to site basis) over electricity is well documented by the U.S. Department of Energy, the National Academy of Sciences, and the Environmental Protection Agency, among others.

APGA is concerned, however, that in promulgating energy efficiency regulations, DOE, in an attempt to increase efficiency, may encourage fuel switching from efficient to less efficient appliances. This can occur, for example, where energy efficiency standards force consumers to choose between more efficient appliances with higher up-front costs and less efficient appliances with lower up-front costs. The net result may be a reduction in overall energy efficiency.

**Whereas**, the direct-use of natural gas achieves a higher level of energy efficiency than electricity as it avoids the loss of useable energy that results from electricity generation, transmission and distribution; and

**Whereas**, natural gas is the cleanest of all fossil fuels, emitting substantially lower quantities of greenhouse gases and criteria pollutants per unit of energy produced than coal or oil.

**NOW, THEREFORE, BE IT RESOLVED:** That regulations concerning energy efficiency in federal buildings must recognize the high efficiency gains and reduced greenhouse gas emissions provided by the direct use of natural gas; and

**BE IT FURTHER RESOLVED:** That any regulations concerning energy efficiency in federal buildings should be based on source-based energy metrics; and

**BE IF FURTHER RESOLVED:** That APGA supports the repeal of Section 433 of the Energy Independence and Security Act of 2007, which mandates the elimination of all fossil fuel-generated energy use in new or renovated Federal buildings by 2030.

## **Clean Energy Standard (2012)**

There have been discussions in the past regarding the establishment of a federal Clean Energy Standard (CES) for electricity generation. A federal CES would reduce greenhouse gas emissions by mandating greater use of low-carbon energy sources.

Natural gas is domestically produced, abundant, and reliable; and it is the cleanest of all fossil fuels, emitting substantially lower quantities of greenhouse gases and criteria pollutants per unit of energy produced than coal or oil. On a full fuel-cycle basis, which has been endorsed by the Department of Energy in a 2011 Policy Statement, the direct use of natural gas in homes achieves better energy system efficiency than electricity. The direct use of natural gas would help reduce the need for additional electricity generation and provide electric/gas utilities with more flexibility in terms of complying with a CES while meeting future load requirements.

**Whereas**, natural gas can play a role in achieving America's clean energy future.

**NOW, THEREFORE, BE IT RESOLVED:** That the direct use of natural gas can and should have a role in the formulation of a CES; and

**BE IT FURTHER RESOLVED:** That if a utility that provides both natural gas and electric service meets new load requirements with the direct use of natural gas, that utility should receive a credit under a CES in the same manner that it would receive a credit for utilizing clean and/or renewable energy sources for electricity generation.

### **Use of Natural Gas for Transportation (2008 – Amended in 2010)**

Natural gas vehicles (NGVs) are 90% cleaner than the EPA's current NOx standard and emit up to 21% fewer greenhouse gas (GHG) emissions than a comparable gas or diesel vehicle. When fueling with renewable natural gas (RNG), GHG emissions can be reduced up to 382%.

NGVs offer the fastest path to reducing heavy-duty vehicle emissions. Heavy and medium duty vehicles are the number one source of smog. While heavy-duty vehicles total only 7% of all vehicles on America's roadways, they account for upwards of 50% of all smog-precursor emissions and 20% of all transportation-related GHGs.

**Whereas**, APGA members strive for balanced energy solutions, protecting the environment and providing affordable products for consumers.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA supports the use of natural gas in all viable transportation applications as being in the best long-term interests of the U.S.; and

**BE IT FURTHER RESOLVED:** That APGA supports comparative consideration of environmental, security, energy independence, reliability and convenience benefits in federal policy discussions in all transportation applications; and

**BE IT FURTHER RESOLVED:** That APGA supports federal and state incentives that encourage the use of natural gas-fueled transportation of all types, the manufacturing of natural gas-powered vehicles, ships, and locomotives, and the building of refueling infrastructure; and

**BE IT FURTHER RESOLVED:** That APGA supports legislation to streamline the permitting and cost of retrofitting of all American made transportation applications that use natural gas; and

**BE IT FURTHER RESOLVED:** That APGA supports legislation to require government agencies to use NGVs as a percentage of their fleets; and

**BE IT FURTHER RESOLVED:** That APGA supports legislation to allow states to require access to high occupancy vehicle (HOV) lanes by dedicated alternative fuel

vehicles including NGVs.

### **Energy Efficiency Standards (2005 – Amended in 2010)**

The Department of Energy sets energy efficiency standards for various appliances, including those using natural gas. In 2011, the Department of Energy issued a Policy Statement to the effect that fuel efficiency and environmental assessments should be measured on a full fuel cycle basis, versus a site basis. It is well understood that on a full fuel cycle basis, natural gas, which loses only about 10% of its usable energy on a source-to-site basis, is far more efficient than electricity, which loses about 70% of its usable energy on a site-to-source basis.

**Whereas**, the full fuel cycle bases for measuring energy efficiency is the most appropriate.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA urges Congress, through legislation, and federal agencies (such as DOE and EPA), through regulation, to incorporate full fuel cycle analysis in the establishment and administration of energy efficiency appliance standards. This would represent a “total energy efficiency” or “real energy efficiency” approach to energy efficiency appliance standards. Such an approach would measure the amount of energy used from the production of energy through final delivery to customers when calculating the amount of energy used for energy efficiency standards; and

**BE IT FURTHER RESOLVED:** That APGA supports amending federal energy efficiency standards so that natural gas appliances are designated as Energy Star appliances and therefore are eligible to receive available tax incentives and energy credits; and

**BE IT FURTHER RESOLVED:** That APGA opposes any efforts by DOE to change the accounting for source energy in a fashion that distorts the full fuel cycle efficiencies of natural gas versus electricity; and

**BE IT FURTHER RESOLVED:** That APGA urges DOE in setting energy efficiency standards for gas-fueled appliances to avoid setting standards that promote fuel-switching from natural gas to electricity or other less efficient resources.

### **Resolutions Pertaining to Pipeline Safety**

#### **Commitment to Pipeline Safety (2018)**

A safety management system (SMS) is a systematic approach to managing safety. Embedded in a SMS are the overarching structures, policies, and procedures an organization uses to direct and control its activities. In many situations, pipeline operators already have these elements implemented and Pipeline Safety Management Systems (PSMS) offer a framework to continuously improve these programs.

One of the elements of a SMS that is essential to safe operations is a commitment by management.

**Whereas**, safety is the highest priority of APGA members; and

**Whereas**, public gas systems have an excellent safety record; and

**Whereas**, the basic elements of PSMS are applicable to public gas systems of all sizes and can assist operators in identifying areas where pipeline safety performance can be enhanced.

**NOW, THEREFORE, BE IT RESOLVED:** That each APGA member is committed to continuing to enhance pipeline safety through the following SMS elements:

1. Promoting a positive safety culture within its system.
2. Communicating and educating employees, contractors, and the public regarding pipeline safety.
3. Implementing processes and actions that reduce risk and maintain the integrity of its pipeline assets.
4. Developing and maintaining safe work practices.
5. Investigating incidents and near-misses on its pipeline system in an effort to identify and implement corrective actions moving forward.
6. Verifying that existing operations and safety practices are improving pipeline safety.
7. Reviewing its system's safety performance to determine if additional actions are necessary to improve pipeline safety.
8. Responding effectively to pipeline incidents.
9. Ensuring that its personnel and contractors are competent in performing all tasks that impact the integrity of its system.
10. Maintaining documentation needed to ensure pipeline safety.

### **Pipeline Safety User Fees (2015)**

Since 1986 the Pipeline and Hazardous Materials Safety Administration's (PHMSA) gas safety budget has been paid for by user fees collected by transmission and LNG operators. The concept underlying this collection mechanism is that the cost of regulatory oversight over the natural gas pipeline system should be paid by gas customers that benefit from efficient and safe pipeline transportation. Most of the gas consumed in the U.S. passes through the interstate pipeline system so that is the logical place to collect the fee. Pipeline operators can pass on this cost to their customers through adjustment to transportation rates.

Interstate pipelines have complained that user fees are only assessed on transmission pipelines and not also on distribution lines. They contend that since PHMSA provides funding to state pipeline safety agencies for the states to enforce pipeline safety regulations on distribution utilities and intrastate transmission lines, some portion of PHMSA's budget should be paid for by user fees assessed directly to distribution pipeline operators. This contention overlooks two important facts. First, user fees paid by transmission pipelines are already passed on to distribution systems and other customers using the transmission pipelines in the rates the pipelines charge for transporting gas. Distribution customers are already paying part of PHMSA's budget through the fees they pay their pipeline suppliers.

Second, a mechanism already exists for interstate pipelines to incorporate changes to the pipeline safety user fees in their transportation rates so that they are kept whole. Pipelines may apply to the Federal Energy Regulatory Commission to raise their rates accordingly. APGA is unaware that FERC has ever denied the pass-through of pipeline safety user fees in any pipeline's general rate proceeding.

Were PHMSA to impose user fees on distribution pipelines, many distribution customers would be paying user fees twice – once in the direct payments by the distribution company to PHMSA and again in the transportation rates charged by the LDCs' pipeline supplier(s).

**Whereas**, the cost of regulatory oversight over the natural gas pipeline system should continue to be paid by gas customers that benefit from efficient and safe pipeline transportation; and

**Whereas**, most of the gas consumed in the U.S. passes through the interstate pipeline system; and

**Whereas**, pipelines already collect from customers the costs of user fees as they currently exist in their rates; and

**Whereas**, a mechanism already exists for interstate pipelines to apply to the Federal Energy Regulatory Commission to raise their rates to reflect increases in user fees.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA urges Congress to reauthorize the Natural Gas Pipeline Safety Act of 1968 without changing an effective, long-standing method in how pipelines collect user fees.

**BE IT FURTHER RESOLVED:** That APGA opposes a cost tracker for pipeline safety costs that could impose rather than considering such costs to be part of an interstate pipeline's cost of service that may be recovered in general rate proceedings under the Natural Gas Act.

### **State Excavation Damage Prevention Programs (2013)**

Excavation damage is the leading cause of accidents on natural gas distribution systems. According to statistics from the Pipeline and Hazardous Materials Safety Administration (PHMSA), in 2011 there were over 76,000 instances of excavation damage to natural gas distribution piping. Thirty-one of these incidents resulted in death, injury and/or property loss exceeding \$50,000.

Public gas systems are leaders in establishing "one-call" systems, which allow an excavator to make one call to notify all utilities participating in the one-call about the excavator's intent to excavate, so the utilities can mark the location of their buried facilities. One-call systems are most effective when they are truly "one call," i.e., all owners of buried facilities participate in the one-call center.

Excavation damage prevention is regulated by state laws and regulations. Most states have damage prevention laws, but many of these laws are ineffective because they exempt certain classes of excavators and utilities from damage prevention requirements. In some states there is little or no enforcement of damage prevention

laws.

**Whereas**, safety is the highest priority of APGA members; and

**Whereas**, excavation damage is the leading cause of accidents on natural gas piping; and

**Whereas**, effective state damage prevention programs have proven successful at reducing the occurrence of excavation damage to gas pipelines; and

**Whereas**, one-call systems are most effective when all excavators and owners of buried facilities participate in the one-call system; and

**Whereas**, not all states have effective damage prevention laws that require all excavators and all operators of buried facilities to participate in one-call systems.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA urges states to adopt and enforce effective damage prevention laws that include requiring all excavators and all operators of buried facilities to participate in one-call systems.

### **Resolutions Pertaining to Gas Supply/Markets**

#### **Support for Financial Holding Companies Engaging in Physical Natural Gas Commodity Transactions (2015)**

Regulators and Congress have scrutinized the activities of large Wall Street banks in physical commodity transactions. Regulatory initiatives have followed that could reduce the liquidity in swap markets vital to the interests of APGA members. In January 2014, the Federal Reserve released an Advanced Notice of Proposed Rulemaking (ANPR) that addressed the activities of large banks (referred to as “Financial Holding Companies” in the ANPR) as it pertained to the trading of physical commodities, including natural gas. Specifically, the ANPR proposed to restrict banks’ activities in physical commodities. The ANPR describes natural gas and other energy commodities as “environmentally sensitive commodities” and specifically implied that contact with natural gas and other environmentally sensitive commodities could expose Financial Holding Companies to unwarranted risks.

In December 2018, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (together, the agencies) invited public comment on a proposal that would implement a new approach for calculating the exposure amount of derivative contracts under the agencies' regulatory capital rule. The proposed approach, called the standardized approach for counterparty credit risk (SA-CCR), would replace the current exposure methodology (CEM) as an additional methodology for calculating advanced approaches total risk-weighted assets under the capital rule. The result is that large banks would have to hold more much more capital for energy swaps.

Many public gas systems utilize large banks as counterparties for a number of transactions, including natural gas prepay transactions. These large financial



institutions have played a critical role for decades as they have been nearly the only entities that have served as counterparties in the deal as the supplier of the physical natural gas. APGA is very concerned about any potential regulations and/or legislation that would prohibit, or inappropriately restrict, large banks from engaging in physical natural gas commodity transactions.

**Whereas**, efforts are taking place to prohibit financial holding companies from engaging in activities associated with physical natural gas transactions; and

**Whereas**, the Board of Governors of the Federal Reserve System is considering actions that would impact the activities of large banks (referred to as “Financial Holding Companies”) as they pertain to the trading of physical commodities, including natural gas; and

**Whereas**, the Board of Governors of the Federal Reserve System has described natural gas and other energy commodities as “environmentally sensitive commodities” and implied that contact with natural gas and other environmentally sensitive commodities could expose Financial Holding Companies to unwarranted risks; and

**Whereas**, given that many public gas systems utilize financial holding companies as counterparties for a number of transactions, including prepaids, unduly limiting or preventing these entities from engaging in the physical natural gas business would harm market liquidity for public gas systems, potentially increase physical transaction costs, and threaten the viability of natural gas prepayment transactions.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA is opposed to the implementation of regulations that would prohibit, or inappropriately restrict, Financial Holding Companies from engaging in physical natural gas commodity transactions.

### **Gas-Electric Coordination (2013)**

In early February 2011, many southwestern states experienced unusually cold and windy weather which lasted for several days. The sustained cold temperatures placed a strain on the electric and gas systems in those states and, as a result, service to approximately 4.4 million electric customers and 50,000 gas customers was impacted. This event, as well as the ongoing trend toward more reliance on natural gas for electricity generation, has drawn the attention of the Federal Energy Regulatory Commission (FERC) to the interdependence of the gas and electric industries as the Commission looks to ensure that reliability problems are not the result of the lack of coordination between the electricity and gas industries.

Changes to existing industry practices to address gas-electric coordination issues have the potential to significantly impact local distribution systems, especially public gas systems given that approximately 95% of public systems are captive to one pipeline.

**Whereas**, APGA members are responsible for reliable supply to their customers.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA supports reasonable measures to enhance gas-electric coordination provided that such measures do not diminish current LDC flexibility in the exercise of their firm transportation rights and do not result in LDCs underwriting pipeline services to other classes of customers; and

**BE IT FURTHER RESOLVED:** That, given that the pipeline infrastructure in this country has been built on the basis of firm commitments by LDCs, a key predicate for any regulatory action must be that customers seeking firm transportation service pay the reservation charges associated with such firm service; and

**BE IT FURTHER RESOLVED:** That pipelines must operate under rate schedules that ensure that curtailment orders are honored by non-firm (including secondary firm) customers so that service to high-priority residential and commercial consumers is protected.

### **Gas Supply and Safe and Responsible Natural Gas Production (2012)**

Advances in drilling technology have made substantial untapped domestic natural gas reserves recoverable both on and offshore. This expanded resource base has altered, in a very positive manner, the energy landscape and provides the United States with the ability, among other things, to reduce its energy dependence and improve its air quality.

The most prominent of these advanced technologies involves hydraulic fracturing, which has raised questions as to its potential to contaminate drinking water supplies or even to cause earthquakes.

The concerns about the potential adverse impact of domestic drilling in general and hydraulic fracturing in particular have become a part of a national conversation on energy development. Many states have passed laws concerning the process. The outcome of this conversation will substantially impact American consumers generally and local distribution companies in particular.

**Whereas,** APGA appreciates the innovation of hydraulic fracturing and horizontal drilling and its impact on gas supply.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA urges the Federal government and Congress to permit sufficient drilling for gas reserves on Federal lands (onshore and offshore) to ensure an adequate and affordable supply of natural gas; and

**BE IT FURTHER RESOLVED:** That APGA supports safe and responsible natural gas development of all types consistent with protecting human health, drinking water supplies, and the environment; and

**BE IT FURTHER RESOLVED:** That APGA supports transparency in the disclosure of hydraulic fracturing fluids consistent with protection of human health, the environment, and proprietary rights; and

**BE IT FURTHER RESOLVED:** That APGA supports carefully crafted, common sense regulatory regimes with input from all relevant stakeholders that can appropriately balance the demand for domestic energy with protection of human health and the environment.

## **Natural Gas Market Transparency (2006 – Amended in 2010)**

History has demonstrated that a lack of transparency in natural gas markets contributes to market volatility. Congress recognized this principle when enacting the Dodd-Frank Wall Street Reform and Consumer Protection Act. APGA supported key provisions of this legislation, which significantly increased market transparency.

The Commodity Futures Trading Commission (CFTC) plays a key role in the implementation of Dodd-Frank and in fostering market transparency generally.

Congressional efforts to increase transparency and enact other market oversight provisions have also included the consideration of mandated clearing of all over-the-counter (OTC) transactions. The mandated clearing of all OTC transactions would require public gas systems to post initial margin and to meet potential margin calls whenever required on little notice. APGA has communicated in testimony to Congress that mandated clearing would place a significant financial and operational burden on its members, their communities, and consumers.

**Whereas**, financial stewardship is a key discipline for APGA members in its service to the communities it operates.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA supports a level of funding to ensure that the CFTC has sufficient resources to maintain an effective level of market oversight; and

**BE IT FURTHER RESOLVED:** That APGA supports transparent markets; and

**BE IT FURTHER RESOLVED:** That APGA opposes the passage of legislation or enactment of regulations that would require public gas systems to clear or margin their OTC transactions since, among other things, the activities of public gas systems had nothing to do with the financial melt-down that precipitated the Dodd-Frank Act.

## **Retail Unbundling (2005)**

The natural gas and electric utility industries have undergone substantial restructuring, which is ongoing, as FERC and the states rely increasingly on competition to replace regulation. Legislators and regulators at the federal and state level continue to debate whether "customer choice" at the retail level should be mandated by government action.

**Whereas**, APGA members support policies best for their customers, who are their neighbors in their communities.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA submits that retail unbundling may not be appropriate for every community and that it should be implemented only if it provides net benefits to consumers; and that such determination should be made by

state and local governments, not by FERC or by the Congress.

## Other

### Tax-Exempt Financing (2013)

Some in Congress and the Administration, as a way to increase federal tax receipts, have suggested restrictions on the ability of local governments to issue debt on which the interest payments are exempt from federal taxation. Some would eliminate tax-exempt financing altogether. Absent tax-exempt status, the cost of municipal bonds would increase borrowing rates by as much as two percentage points.

**Whereas**, the elimination of, or restrictions on, tax-free financing by political subdivisions would have significant adverse impacts on the ability of public gas systems to finance infrastructure investments that are necessary to support economic growth and jobs, as well as for the prepayment of natural gas purchases, thereby negatively impacting service reliability and end-user prices.

**Whereas**, advance refunding bonds allows APGA members the ability to refinance and restructure existing debt

**Whereas**, advance refunding is an important tool for APGA members to lower their borrowing costs associated with building and maintaining their infrastructure, which results in lower costs to customers

**NOW, THEREFORE, BE IT RESOLVED:** That APGA believes any future tax legislation should restore the ability to issue tax-exempt advance refunding bonds

**NOW, THEREFORE, BE IT FURTHER RESOLVED:** That APGA opposes legislation and/or regulations that would reduce or repeal the federal tax exemption on interest earned from municipal bonds.

### Support for Research and Development (2005 – Amended in 2010)

In August 2004, the federally mandated natural gas research and development (R&D) surcharge was terminated. As such, there is no sustained federal support for natural gas operational and end-use R&D. However, there are still many research and development needs all along the natural gas value chain. APGA members fund R&D through the not-for-profit APGA Research Foundation.

**Whereas**, innovation is key to furthering natural gas use and ensuring the environment and consumers benefit from the continued consumption of this fuel.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA supports the appropriation of federal dollars for R&D, including DOE R&D directed at integrating natural gas into the smart energy grid through new and improved end-use technology; and

**BE IT FURTHER RESOLVED:** That APGA supports federal funding of R&D in support

of increasing natural gas resources, both conventional and unconventional, including natural gas from methane hydrates; and

**BE IT FURTHER RESOLVED:** That APGA supports federal funding of R&D in support of cost-effective, fuel neutral technologies to sequester, capture or reduce CO<sub>2</sub> emissions; and

**BE IT FURTHER RESOLVED:** That APGA urges Congress to increase annual appropriations for these valuable R&D programs and to relax co-funding requirements for public gas utilities.

### **Maintain Funding for LIHEAP (2005 – Amended in 2011)**

The Low-Income Home Energy Assistance Program (LIHEAP) serves a critical role as a safety net for our Nation's low-income households. Since 1981, the number of households eligible for LIHEAP assistance has grown, while the number of households receiving assistance has declined.

**Whereas,** natural gas can be a part of America's clean energy future, supplying those most vulnerable populations with affordable and reliable fuel.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA supports funding LIHEAP at the full authorization level of \$5.1 billion.

### **The Benefits of a Publicly-Owned Gas System (2005)**

There are almost 1000 publicly-owned gas systems serving some five million consumers in more than 1000 communities in the United States. Publicly-owned gas systems, which are political subdivisions of the state, have as their primary purpose providing a dependable source of energy for consumers at the lowest reasonable rates.

**Whereas,** APGA members are proud to serve their communities, providing a fuel that is affordable, abundant, and American.

**NOW, THEREFORE, BE IT RESOLVED:** That APGA believes that gas consumers and all sectors of the industry should be fully informed of the benefits of public gas service, including the ability of publicly-owned gas systems to function efficiently in a competitive energy marketplace, and it supports the principle that every community should be able to provide competitively priced, publicly-owned gas service.