



October 21, 2026

VIA ELECTRONIC MAIL

The Honorable Laura V. Swett, Chair
The Honorable David Rosner, Commissioner
The Honorable Lindsay S. See, Commissioner
The Honorable Judy W. Chang, Commissioner
The Honorable David LaCerte, Commissioner
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

RE: Opposition to Any Rulemaking Permitting Interstate Oil Pipelines with Monopolistic Market Power to Require Individually Negotiated Transportation Rates

Dear Chair Swett and Commissioners:

NACS, NATSO, and SIGMA write on behalf of America's fuel marketers and retailers¹ to express our strong opposition to any prospective Federal Energy Regulatory Commission ("FERC") rulemaking that would permit interstate oil pipelines possessing market power to require shippers to negotiate transportation rates individually, in lieu of the non-discriminatory, cost-based rates that the Interstate Commerce Act requires.

We understand that some pipeline interests are urging FERC to initiate such a rulemaking. Were the Commission to do so, we are highly confident that it would impose significant upward pressure on the prices consumers pay for diesel and gasoline throughout the country, at the very moment the federal government is taking extraordinary measures to bring those prices down. Other than pipelines, we are hard-pressed to identify any stakeholder in the entire fuel value chain (including consumers) that would support such a rulemaking.

We urge the Commission to abandon a rulemaking on this issue. That the Commission would even consider such a proposal, in service of an objective at odds with the federal government's effort to lower diesel and gasoline prices, is curious. At a minimum, before the Commission even considers such a substantial change, the Commission should conduct an extensive, public information gathering process to determine (1) what problems a rulemaking would be designed to solve and (2) the effects of such a rulemaking on American consumers.

For these reasons and those outlined below, we urge the Commission not to proceed with any such rulemaking.

¹ NACS is an international trade association representing the convenience store industry with more than 1,300 retail and 1,600 supplier companies as members, the majority of whom are based in the United States. NATSO currently represents approximately 5,000 travel centers and truck stops nationwide, comprising both national chains and small, independent locations. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel.

Our Members Are the Link in the Fuel Supply Chain Closest to the Consumer

Fuel retailers and marketers are price takers upstream and competitors downstream. They purchase refined product at the wholesale rack and sell it to consumers at retail. Fuel retailers operate within the most competitive, transparent commodities market in the United States. The price is posted on a sign visible from the highway, and consumers comparison-shop it in a way they do for virtually no other commodity. A one-cent-per-gallon difference moves volume between competitors.² Transportation cost increases—even when measured in cents—are readily perceived by consumers. Retailers have no counterparty to whom a cost increase can be passed other than consumers.

That structural market position brings a perspective that FERC should weigh carefully. In the entire refined products supply chain, our members are the only participants whose economic interest is mechanically identical to the consumer's. While pipelines capture a higher delivered product price as revenue, our members do not. Higher delivery costs are passed through to consumers.

Permitting Negotiated Rates at Captive Delivery Points Would Enrich Pipeline Companies at the Expense of Consumers

A pipeline cost increase is not merely borne by the shipper that pays it; it contributes to the delivered price level in the destination market. Refined product markets clear on the delivered cost of the *marginal barrel* – the last barrel required to balance the market. In an inland market served by pipeline, that barrel arrives by pipeline. An increase in the rate charged on the marginal barrel is therefore passed through to every gallon sold in that market – not merely to the barrels the affected shipper moved. **Because the higher rate sets the price for the entire market, consumers will absorb costs well beyond the pipeline's added revenue.**

That harm will be concentrated precisely where such a proposed rule would operate: at delivery points where shippers have no meaningful economic alternative. Pipeline transportation costs a fraction of Jones Act compliant waterborne transportation, which is why so many inland markets (e.g., Southeast, Mid-Atlantic, Midwest, Rockies, and Southwest) are served by a single pipeline with no viable substitute. Where a pipeline faces genuine competition, this rule is unnecessary because the Commission already grants market-based rate authority to pipelines that demonstrate they lack market power. The rulemaking under consideration would therefore have a concentrated impact on those markets where consumer exposure is greatest.

Permitting pipelines to discriminate among shippers would not benefit consumers. It would merely govern the allocation of monopoly profits between the pipeline and its affiliates and/or favored shipping affiliates. Because the market clears on the marginal barrel, the destination price would be set by the *highest* negotiated rate in the market. This outcome will impose material upward pressure on the prices consumers pay for fuel.

² Survey research from the Transportation Energy Institute found that 69 percent of consumers would drive five minutes out of their way to save 5 cents per gallon, and 72 percent said price is the most important factor in deciding where to buy fuel. "Here's How Consumers Feel About Transportation Needs," *NACS Daily*, NACS, July 29, 2025, https://www.convenience.org/stay-current/news/2025/july/29/3-heres-how-consumers-feel_research.

The rulemaking under consideration would benefit monopolistic pipelines and monopolistic pipelines alone. No other participant in the fuel supply chain benefits from this proposal. Refiners gain no new access, while marketers and retailers face higher costs and a structural cost disadvantage relative to larger shippers and – most indefensibly – pipelines’ own shipping affiliates. **Consumers will pay more for gasoline and diesel if this rulemaking comes to fruition.**

The Rulemaking under Consideration Would Contravene the Interstate Commerce Act

The rulemaking under consideration cannot be reconciled with the Interstate Commerce Act or the well-established judicial treatment of its provisions.

The Interstate Commerce Act requires interstate oil pipelines, as common carriers, to provide transportation on reasonable request at just and reasonable rates. It also prohibits undue or unreasonable preference or prejudice among shippers, a protection that applies not only to rates but to access, capacity allocation, and other terms of service. Nothing in the statute permits the Commission to replace cost-based, non-discriminatory rates with individually negotiated ones. A change of that magnitude requires an act of Congress.

In *Farmers Union Central Exchange v. FERC*,³ the D.C. Circuit rejected reliance on generalized findings of competition as the principal constraint on oil pipeline rates. Departures from cost-based ratemaking have since been permitted *only* on an affirmative showing that a specific pipeline lacks market power. In 2014, for example, the Commission rejected a pipeline’s proposal to negotiate rates on existing capacity because it would have created two classes of shippers with unequal rates and access, contrary to the pipeline’s common carrier obligations.⁴

The Commission, then, does not have the legal authority to promulgate the rule it is contemplating here. We urge the Commission to abandon it and allow the current pricing structure for pipelines – which serves all participants in the market well – to continue to function as intended under the Interstate Commerce Act.

We appreciate the Commission’s attention to these concerns and would welcome the opportunity to provide additional information to the Commissioners or to Commission staff.

Respectfully submitted,

National Association of Convenience Stores (NACS)
NATSO, Representing America’s Travel Centers and Truck Stops
SIGMA: America’s Leading Fuel Marketers

³ *Farmers Union Cent. Exch., Inc. v. FERC*, 734 F.2d 1486 (D.C. Cir. 1984).

⁴ *Colonial Pipeline Co.*, 145 FERC ¶ 61,134 (2014).