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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2017-0129]

Pipeline Safety: Underground Natural Gas Storage Facility User Fee

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of agency action.

SUMMARY: On December 8, 2017, PHMSA published a notice and request for comments in the Federal Register titled: “Underground Natural Gas Storage Facility User Fee” seeking comments from underground natural gas storage facility (UNGS) operators on a proposal to use UNGS annual report data in the user fee rate structure. PHMSA received two comments in the docket.

We are publishing this notice to address the comments received and to announce that PHMSA has used UNGS annual report data about the number of wells in the user fee rate structure for the Pipeline Safety Fund’s Underground Natural Gas Storage Facility Safety Account.

FOR FURTHER INFORMATION CONTACT: Crystal Stewart by telephone at 202-366-1524, by fax at 202-366-4566, by email at Crystal.Stewart@dot.gov, or by mail at U.S.

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SUPPLEMENTARY INFORMATION:

Background

The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) (Pub. L. 99-272, sec. 7005), codified in part at section 60301 of title 49, United States Code, authorizes the assessment and collection of user fees to fund the pipeline safety activities conducted under chapter 601 of title 49. On June 22, 2016, President Obama signed into law the “Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016” (Pub. L. 114-183) (PIPES Act of 2016). Section 12 of the PIPES Act of 2016 mandates that PHMSA issue regulations for UNGS facilities, authorizes user fees on operators of these facilities, and directs PHMSA to prescribe procedures to collect those fees upon appropriation. Section 2 of the PIPES Act of 2016 authorizes \$8 million per year to be appropriated from those fees for each of FY 2017-2019 for the newly established Underground Natural Gas Storage Facility Safety Account in the Pipeline Safety Fund. After Congress appropriates funds to this account for fiscal year (FY) 2018 and beyond, PHMSA will collect user fees from the operators of the facilities.

Summary of Comments

The December 8, 2017 notice advised all UNGS facility operators of a proposed PHMSA pipeline user fee assessment and rate structure (82 FR 58045). During the one-month response period, PHMSA received comments from two commenters on the proposed UNGS user fee billing methodology: WBI Energy Transmission Inc., and National Fuel Gas Supply Corporation.

The comments can be found at <http://www.regulations.gov> in Docket Number PHMSA-2017-0129. WBI Energy Transmission Inc., submitted comments supporting the rate structure proposed by PHMSA in the December 8, 2017 notice. The remaining comment is summarized below with PHMSA’s response:

Comment: National Fuel Gas Supply Corporation stated that well count alone is not an appropriate measure for determining a user fee since larger wells will require more regulatory oversight than smaller wells.

Response: Each well penetrating an underground natural gas storage reservoir represents a risk. Currently, PHMSA intends to apply a consistent level of regulatory oversight to all wells, regardless of size. As PHMSA implements its underground storage inspection program, we may gain insights leading to a user fee methodology more reflective of regulatory oversight effort.

Underground Natural Gas Storage Facility User Fee Plan

During the FY 2018 user fee process, PHMSA has used calendar year (CY) 2016 annual report data for gas transmission pipelines, hazardous liquid pipelines, and liquefied natural gas facilities. Using CY 2016 data ensures adequate time to verify annual report data quality and still be able to send user fee assessments promptly after appropriation. PHMSA does not have CY 2016 annual report data for underground natural gas storage facilities. Congress appropriated UNGS funds for FY 2018, and PHMSA has used the CY 2017 UNGS annual report data to develop the UNGS user fee rate structure for FY 2018. If Congress appropriates UNGS funds for FY 2019, PHMSA plans to use the CY 2017 UNGS annual report data to develop the UNGS user fee rate structure for FY 2019. Specifically, PHMSA will use the number of injection/withdraw wells (section C7) and monitoring/observation wells (section C8) in the rate structure. For the FY 2020 user fee rate structure, PHMSA would use the CY 2018 UNGS annual report data.

For FY 2018, Congress has appropriated \$8 million to the Underground Natural Gas Storage Facility Safety Account in the Pipeline Safety Fund. PHMSA has used the following steps to develop the user fee rate structure. PHMSA summed the number of wells from sections C7 and C8 of the annual report for each operator. Once PHMSA determined the number of wells

for all UNGS operators, each operator was parsed into one of 10 tiers, based on an ordinal ranking of its well counts compared to other UNGS operators. The operators with the lowest well-count values were placed in tier 1, with the highest operator well-count values in tier 10. The minimum and maximum well counts for each tier were then selected so that an equal number of operators were placed in each tier. This tiered fee structure is designed to place a larger share of the user fee on operators with higher well counts.

Using CY 2017 UNGS annual report data as of May 9, 2018, the following table shows the tier boundaries and user fee for each operator in the tier. When the tier boundary spans two tiers, PHMSA randomly selected operators for the lower tier. For example, four wells is the boundary between Tiers 1 and 2. Seven operators have four wells, but only two operators were randomly selected and placed in Tier 1. The remaining five operators with four wells were placed in Tier 2.

Tier	Amount (% of total)	Tier Boundaries	Number of Operators	User Fee per Operator
1	\$160,000 (2%)	4 wells or less	13	\$12,308
2	\$320,000 (4%)	4 to 7 wells	13	\$24,615
3	\$400,000 (5%)	7 to 12 wells	13	\$30,769
4	\$480,000 (6%)	13 to 19 wells	13	\$36,923
5	\$640,000 (8%)	19 to 27 wells	13	\$49,231
6	\$800,000 (10%)	28 to 45 wells	13	\$61,538
7	\$960,000 (12%)	46 to 68 wells	13	\$73,846
8	\$1,040,000 (13%)	69 to 100 wells	12	\$86,667
9	\$1,200,000 (15%)	101 to 377 wells	12	\$100,000

10	\$2,000,000 (25%)	378 wells or more	12	\$166,667
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In summary, PHMSA has used UNGS annual report data about the number of wells in the FY 2018 user fee rate structure for the Pipeline Safety Fund’s Underground Natural Gas Storage Facility Safety Account. In future years, the final tier boundaries and user fee per operator may differ slightly from those listed above based on the annual report data at the time the rate structure is established.

Issued in Washington, DC, on August 3, 2018, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

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