UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
WASHINGTON, D.C.

Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments	)	**Docket No. PHMSA-2011-0023**

MOTION TO STAY FINAL RULE

The GPA Midstream Association (GPA) and American Petroleum Institute (API) (collectively, the Associations) respectfully submit this Motion to Stay certain requirements in the Final Rule (Motion) in the above-captioned proceeding (Final Rule).[1] Specifically, the Associations respectfully request that the Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) stay the requirements in 49 C.F.R. §§ 191.3,[2] 191.5,[3] 191.15(a)(1), 191.17(a)(1), 191.23(a),[4] 192.8(a)(5),[5] and 192.8(b)(1).[6]

As explained in the petition for reconsideration (Petition) that the Associations are filing with this Motion, PHMSA failed to comply with the requirements in the Pipeline Safety Act and Administrative Procedure Act in issuing the Final Rule. In particular, the Agency failed to prepare an adequate risk assessment, to respond to significant information and comments, and to make a reasoned determination that the benefits of the Final Rule justify its costs.

The Associations' members will suffer irreparable harm if the requirements identified in this Motion are not stayed or modified. They will be forced to engage in immediate and substantial activities to determine the regulatory status of existing gathering lines to comply with the incident

[1] Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments, 86 Fed. Reg. 63,266 (Nov. 15, 2021) (hereinafter "Gas Gathering Final Rule").
[2] The Associations seek a stay of the definition of a regulated onshore gathering line as applied to Type C gathering lines in existence on or before May 16, 2022. The Associations are asking for a stay of this provision to be consistent with the requested changes in the Petition covering the incident, annual, and safety-related reporting requirements.
[3] Although PHMSA did not include modifications to § 191.5 in the Final Rule, the Associations can only assume that Type R and Type C operators would need to comply with § 191.5 starting on May 16, 2022. For those reasons, the Associations respectfully request a stay of § 191.5 as it applies to Type C pipelines.
[4] The Associations seek a stay of § 191.23(a) as applied to Type C pipelines.
[5] The Associations seek a stay of § 192.8(a)(5) as applied to existing incidental gathering lines that extend 10 or miles in length and which are replaced, relocated, or otherwise changed after May 16, 2022.
[6] The Associations reserve the right to seek a stay of other requirements in the Final Rule, if appropriate, in the future.

and safety-related condition reporting requirements that go into effect on May 16, 2022,[7] and will have to engage in similar activities to obtain the information and data necessary to submit annual reports.[8] If certain existing incidental gathering lines are repaired, replaced, relocated, or otherwise changed, operators will have to convert these pipelines to gas transmission service, a process that requires a comprehensive review of historical information, the performance of additional inspections and other remedial measures, and the conduct of pressure testing to establish maximum allowable operating pressure (MAOP).[9] The significant costs associated with these activities are unrecoverable and will be unnecessary if the Petition is successful.

In addition to suffering irreparable harm, the Associations' members can demonstrate that they have met the other factors necessary for a stay. The Associations have a high likelihood for success on the merits, the Agency will not be harmed, and the public interest favors a stay. Therefore, PHMSA should grant the relief sought in the Motion.

A. Procedural Background

On August 25, 2011, PHMSA issued an Advance Notice of Proposed Rulemaking asking for public comment on potential changes to the safety standards and reporting requirements for onshore gas gathering lines in 49 C.F.R. Parts 191 and 192.[10] On April 8, 2016, the Agency proposed those changes in a Notice of Proposed Rulemaking (NPRM).[11] PHMSA also issued a Preliminary Regulatory Impact Analysis (PRIA) with the NPRM that evaluated the potential costs and benefits of its proposals.[12] The Agency estimated that the average annualized safety and environmental benefits would be $11.3 million,[13] and that the average annualized costs would be $12.6 million.[14] PHMSA acknowledged that its cost estimates were based on a study conducted ten years earlier by the Independent Petroleum Association of America (IPAA).[15]

On July 7, 2016, the Associations submitted detailed comments responding to the NPRM.[16] API emphasized that PHMSA grossly underestimated the costs and overstated the benefits of its proposals.[17] API also submitted an extensive economic analysis prepared by ICF International

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[7] The Associations' request for a stay as it applies to reporting requirements is limited to Type C gas gathering lines. As described in this motion, the burden of determining which pipelines are Type C is significant. The burden associated with characterizing all currently unregulated gas gathering pipelines as Type R is not as impactful and therefore the Associations have elected not to seek a stay of those reporting requirements.

[8] Section 191.17(a)(1) does not specify a date for Type C operators and the Associations can only assume that this annual reporting deadline is March 15, 2023, given the language in the preamble and the fact that the Final Rule does not become effective until May 16, 2022.

[9] 49 C.F.R. § 192.14.

[10] Pipeline Safety: Safety of Gas Transmission Pipelines, 76 Fed. Reg. 53,086, 53,100 (Aug. 25, 2011).

[11] Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines, 81 Fed. Reg. 20,722 (Apr. 8, 2016).

[12] PHMSA, Preliminary Regulatory Impact Assessment; Notice of Proposed Rulemaking - Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines at pg. 27 (Mar. 2016) (hereinafter "PRIA").

[13] PRIA at 151.

[14] PRIA at 7, 151.

[15] PRIA at 102.

[16] Comments of GPA Midstream Ass'n, Docket No. PHMSA-2011-0023 (July 7, 2016), https://www.regulations.gov/document?D=PHMSA-2011-0023-0290; Comments of American Petroleum Institute, Docket No. PHMSA-2011-0023 (July 7, 2016), https://www.regulations.gov/document?D=PHMSA-2011-0023-0381 (API 2016 Comments).

[17] API 2016 Comments at 2, 16–17.

(ICF),[18] which indicated that the total cost of the proposed rule would far exceed PHMSA's estimates. Specifically, ICF found that the NPRM would cost industry $28 billion over the initial 15-year compliance period, as compared to PHMSA's estimate of $189 million.[19]

On November 15, 2021, PHMSA published the Final Rule in the *Federal Register*.[20] As the Associations explain at length in their Petition, the Final Rule creates two new categories of onshore gas gathering lines: Type C lines and Type R lines.[21] The Final Rule requires operators of Type R and Type C lines to comply with the incident reporting requirements, effective as of May 16, 2022,[22] and to submit annual reports by March 15, 2023.[23] The Final Rule also requires Type C operators to submit safety-related condition reports starting on May 16, 2022,[24] and further provides that operators of existing, but previously unregulated, pipelines must determine whether these lines are Type R or Type C by November 16, 2022.[25] Finally, the Final Rule requires operators to treat new, replaced, relocated, or otherwise changed incidental gathering lines that extend 10 or more miles in length as regulated transmission lines, effective as of May 16, 2022.[26]

The Agency released a Final Regulatory Impact Analysis (FRIA) with the Final Rule.[27] Despite the significant concerns identified with the PRIA, PHMSA failed to address any of the cost-benefit information that the Associations submitted.[28] PHMSA's cost calculations were again based on the 2006 IPAA figures, now fifteen years old.[29] The Agency inexplicably stated that IPAA's data "was the best available information for many of the cost estimates for this rule[,]"[30] even though the ICF analysis included more detailed and current cost information.

On December 15, 2021, the Associations submitted the Petition. PHMSA's stated policy is to respond to petitions for reconsideration "within 90 days after the date on which the regulation in question is published in the Federal Register."[31] In this case, that 90-day window would close on or around February 13, 2022.

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[18] ICF International, Cost and Benefit Impact Analysis of the PHMSA Natural Gas Gathering and Transmission Safety Regulation Proposal (July 1, 2016) (hereinafter "API 2016 ICF Study"), https://www.regulations.gov/comment/PHMSA-2011-0023-0381

[19] *Id.* at 1.

[20] Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments, 86 Fed. Reg. 63,266 (Nov. 15, 2021).

[21] Type C lines are onshore gas gathering lines in Class 1 locations with an outside diameter greater than or equal to 8.625 inches and an MAOP that produces a hoop stress of 20 percent or more of SMYS for metallic lines, or more than 125 psig for non-metallic lines or metallic lines if the stress level is unknown. Type R lines are any onshore gas gathering lines that do not meet the definition of a Type A, Type B, or Type C line.

[22] 49 C.F.R. § 191.15.

[23] 49 C.F.R. § 191.17.

[24] 49 C.F.R. § 191.23(a).

[25] 49 C.F.R. § 192.8(b).

[26] 49 C.F.R. § 192.8(a)(5).

[27] PHMSA, Final Regulatory Impact Analysis, Pipeline Safety: Expansion of Gas Gathering Regulation Final Rule (Nov. 2021) (hereinafter "FRIA"), https://www.regulations.gov/document/PHMSA-2011-0023-0488.

[28] *Id.*

[29] *Id.*at 16.

[30] *Id.*

[31] 49 C.F.R. § 190.337(b).

B. Applicable Legal Standard

The standard for obtaining a stay from a federal agency is the same as the standard for obtaining a stay from a federal court.[32] Under the well-established four-part test, a request for stay requires consideration of whether: (1) the movant presents a substantial likelihood of success on the merits; (2) irreparable harm would occur without a stay; (3) potential harm to the movant outweighs harm to others if a stay is not granted; and (4) granting a stay is not contrary to the public interest.[33]

C. A Stay is Warranted in this Case

1. The Associations are Likely to Prevail on the Merits

To meet the first prong of the four-part test, the Associations must make "a strong showing that [they are] likely to succeed on the merits"[34] or have raised "serious legal questions."[35] Both conditions are satisfied here.

a. PHMSA issued an arbitrary and capricious risk assessment.

The Pipeline Safety Act requires the Agency to conduct a risk assessment when prescribing minimum safety standards for pipeline facilities.[36] As part of that risk assessment, PHMSA must consider the reasonably identifiable or estimated costs and benefits expected to result from implementation or compliance with the proposed standard.[37] The Pipeline Safety Act further provides that the Agency may only propose a standard "upon a *reasoned determination* that the benefits, including safety and environmental benefits, of the intended standard justify its costs."[38] Executive Order 12866,[39] as amended,[40] imposes similar obligations on PHMSA and other federal agencies as the Agency acknowledged in the preamble to the Final Rule.[41]

As the Associations discuss in greater detail in the Petition, a cost benefit analysis that an agency is required by law to prepare must be reasonable and adequate, particularly in light of

[32] *Sierra Club v. Jackson,* 833 F. Supp. 2d 11, 29-30 (D. D.C. 2012).
[33] *Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm'n*., 259 F.2d 921, 925 (D.C.Cir.1958); *see also, Wash. Metro. Area Transit Comm'n v. Holiday Tours, Inc.,* 559 F.2d 841, 843 (D.C. Cir. 1977); *Nken v. Holder*, 556 U.S. 418, 434 (2009).
[34] *Leiva-Perez v. Holder*, 640 F.3d 962, 966 (9th Cir. 2011) (quoting *Hilton v. Braunkill,* 481 U.S. 770, 776 (1987)).
[35] *Risinger v. SOC LLC,* No. 2:12-cv-00063-MMD-PAL, 2015 WL7573191 (Nov. 24, 2015); *see also, Leiva-Perez*, 640 F.3d at 966 (Courts have stated that in order to meet the standard for a stay, a petitioner need not demonstrate that "it is more likely than not that they will win on the merits.").
[36] 49 U.S.C. § 60102(b)(2)(D)-(E).
[37] *Id.*
[38] 49 U.S.C. § 60102(b)(5) (emphasis added).
[39] Executive Order No. 12866, Regulatory Planning and Review, 58 Fed. Reg. 51,735 (Oct. 4, 1993).
[40] *See* Executive Order No. 13258, Amending Executive Order 12866 on Regulatory Planning and Review, 67 Fed. Reg. 9,385 (Feb. 28, 2002) and Executive Order No. 13422, Further Amendment to Executive Order 12866 on Regulatory Planning and Review, 72 Fed. Reg. 2,763 (Jan. 23, 2007).
[41] Gas Gathering Final Rule, 86 Fed. Reg. at 63,291 (Executive Order 12866 "requires that agencies 'should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating.'''').

statutorily mandated factors.[42] Agencies must provide equal treatment to identifying the costs and benefits of a regulation,[43] and consider all relevant categories of costs and benefits.[44] Agencies are further expected to evaluate less burdensome and less costly regulatory alternatives.[45]

PHMSA did not prepare an adequate risk assessment or make the reasoned cost-benefit determination required under the Pipeline Safety Act in issuing the Final Rule.[46] The Agency based its cost calculations on information provided in 2006,[47] stating that this 15-year-old data "was the best available information for many of the cost estimates for this rule."[48] The Agency did not explain how the far more recent cost data submitted by the Associations was less superior, nor did PHMSA consider all relevant categories of costs and benefits in preparing its calculations. For instance, the Agency failed to properly evaluate the miles and number of operators of gathering lines,[49] *i.e.*, ICF estimated that 3,597 gathering line companies would be affected by the NPRM, compared to PHMSA's estimate of only 367.[50] Nor did PHMSA consider the costs for MAOP determinations,[51] greenhouse gas emissions,[52] compressor stations,[53] field repair of damages,[54] construction of gathering lines,[55] and design pressure.[56] In other words, the Agency relied on outdated cost information, did not evaluate the 2015 data submitted by API in 2016, made other errors and omissions in preparing the FRIA, and failed to respond to the Petitioner's assertions that the costs would far exceed the benefits of the Final Rule. The Associations have made the strong showing of likelihood of success on the merits necessary to warrant a stay in this case.

b. PHMSA did not address the Associations' significant comments, as required by the Pipeline Safety Act, the Administrative Procedure Act, and case law.

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[42] *Business Roundtable v. SEC*, 647 F.3d 1144, 1148–49 (D.C. Cir. 2011) (finding a regulation to be arbitrary and capricious because "the Commission inconsistently and opportunistically framed the costs and benefits of the rule; failed adequately to quantify the certain costs or to explain why those costs could not be quantified; neglected to support its predictive judgments; contradicted itself; and failed to respond to substantial problems raised by commenters.").

[43] *Ctr. for Biological Diversity v. NHTSA*, 538 F.3d 1172, 1198 (9th Cir. 2008) (finding that NHTSA "cannot put a thumb on the scale by undervaluing the benefits and overvaluing the costs of more stringent standard." In this case, NHTSA failed to monetize the benefits of reduction in greenhouse gas emissions. The court agreed with Petitioners that demonstrated these benefits could be monetized.); *Sierra Club v. Sigler*, 695 F.2d 957, 979 (5th Cir. 1983) (explaining that the Army Corps of Engineers cannot "tip the scales . . . by promoting possible benefits while ignoring their costs. Simple logic, fairness, and the premises of cost-benefit analysis . . . demand that a cost-benefit analysis be carried out objectively."); *Corrosion Proof Fittings v. EPA*, 947 F.2d 1201 (5th Cir. 1991) (finding that admitting certain unintended consequences of the regulation renders the cost benefit analysis incomplete and unreasonable.).

[44] *Business Roundtable*, 647 F.3d at 1148–49(citing *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29, 43 (1983)).

[45] *Corrosion Proof Fittings*, 947 F.2d at 1216–17.

[46] *See* 49 U.S.C. § 60102(b)(2)(D) –(E); *see also,* 49 U.S.C. § 60102(b)(5).

[47] FRIA at 16.

[48] *Id.*

[49] API 2016 ICF Study at 12.

[50] *Id.*

[51] *Id.* at 24, 43.

[52] *Id.* at 42.

[53] *Id*. at 65.

[54] *Id*. at 67.

[55] *Id*. at 78.

[56] *Id*. at 83.

The Pipeline Safety Act[57] and Administrative Procedure Act (APA)[58] both require PHMSA to consider comments from the public prior to implementing new minimum safety standards. Section 49 U.S.C. § 60102(b)(2)(F) provides that "when prescribing any standard…[the Agency] must consider comments and information received from the public."[59] The APA requires agencies to "consider and respond to significant comments received during the period for public comment," including by examining the relevant data and articulating an explanation in response to comments that, if adopted, would require a change to the final rule.[60]

PHMSA did not consider the significant cost information submitted by the Associations in developing the Final Rule, including the ICF analysis. The purpose of notice-and-comment rulemaking is to create a dialogue between the agency and stakeholders to exchange views, information, and criticism.[61] As the D.C. Circuit has explained, "a dialogue is a two-way street: the opportunity to comment is meaningless unless the agency responds to significant points raised by the public."[62] Federal agencies also have an obligation to "indicate it has considered the most important objections."[63]

Although the Agency is not required to consider comments that are "purely speculative,"[64] the ICF analysis that API submitted clearly qualifies as a significant point or important objection. ICF provided detailed information about the costs, benefits, and other impacts of PHMSA's proposal in a 312-page document. ICF also identified numerous flaws, errors, and omissions in the PRIA. An agency must respond to comments "that can be thought to challenge a fundamental premise" underlying the rule.[65] Comments that identify significant problems with the Agency's statutorily-required cost-benefit analysis are obviously fundamental. Given PHMSA's failure to address these comments, the Associations have made a strong showing that they are likely to succeed on the merits.

2. Without a stay, the Associations will face irreparable harm.

To meet the second prong of the standard for obtaining a stay, the Associations need to demonstrate that an injury is (1) certain,[66] (2) great[67] and (3) imminent.[68] The Associations' members will face irreparable harm, including nonrecoverable compliance costs, if the relief sought in this Motion is not granted.

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[57] 49 U.S.C. § 60102(b)(2)(F).
[58] *Perez v. Mortg. Bankers Ass'n.*, 575 U.S. 92 (2015).
[59] 49 U.S.C. § 60102(b)(2)(F).
[60] *Perez v. Mortg. Bankers Ass'n*., 575 U.S. 92 (2015); *Carlson v. Postal Reg. Comm'n*., 938 F.3d 337, 343 (D.C. Cir. 2019); *Altera Corp. & Subsidiaries v. IRS*, 926 F.3d 1061, 1080–81 (9th Cir. 2019); *Louisiana Fed. Land Bank Ass'n., FCLA v. Farm Credit Admin*., 336 F.3d 1075, 1080 (D.C. Cir. 2003); *Portland Cement Ass'n v. Ruckelshaus*, 486 F.2d 375, 393–94 (D.C. Cir. 1973).
[61] *Home Box Office, Inc. v. FCC,* 567 F. 2d. 9, 35 (D.C. Cir. 1977).
[62] *Id.* at 35–36.
[63] *Simpson v. Young*, 854 F.2d 1429, 1435 (D.C. Cir. 1988).
[64] *Home Box Office, Inc.,* 567 F. 2d. at 35, n.58.
[65] *MCI WorldCom, Inc. v. FCC*, 209 F.3d 760, 765 (D.C. Cir. 2000).
[66] *Wisconsin Gas Co. v. FERC,* 758 F. 2d 669, 674 (1985).
[67] *Id.*
[68] *Cigar Ass'n of Am. v. U.S. Food and Drug Admin.,* 317 F. Supp. 3d 555, 562 (D. D.C. 2018).

The incident and safety related condition reporting requirements that go into effect on May 16, 2022, create significant compliance obligations. Operators must take steps immediately to review the new requirements, determine the classification of several hundred thousand miles of existing gathering lines, and set up internal mechanisms to monitor for incidents and safety related conditions and file the necessary reports. The burdens associated with performing these activities and obtaining the data necessary to satisfy the annual reporting requirements are significant, particularly given the impact on operators of previously unregulated gas gathering lines and the compressed timeframes established in the Final Rule. Operators may also face legal jeopardy for filing an improper incident reporting form or failing to file a safety-related condition report for an unclassified Type C line prior to the 6-month deadline.

Although the Associations are not requesting that PHMSA rescind these requirements, the unnecessarily short compliance deadlines that the Agency chose to adopt in the Final Rule (in the midst of historic inflation and a global supply chain crisis resulting from the COVID-19 pandemic) will escalate the costs involved dramatically.

Operators of existing but previously unregulated incidental gas gathering lines that extend 10 or more miles in length will need to convert those pipelines to transmission service if any portion is repaired, replaced, or otherwise changed, on or after May 16, 2022.[69] To comply with the conversion-to-service requirements, operators will need to review the design, construction, operation, and maintenance history of the pipeline and, if sufficient historical records are not available, perform appropriate tests; visually inspect the pipeline right-of-way, all aboveground segments of the pipeline, and appropriately selected underground segments; correct defects and conditions; and conduct a pressure test in accordance with subpart K to substantiate MAOP. These compliance burdens are extreme and will be unnecessary if the relief sought in the Petition (only applying the 10-mile limitation to new incidental gathering lines) is granted. Courts have held that "complying with a regulation later held invalid almost always produces the irreparable harm of nonrecoverable compliance costs.'"[70]

The costs involved with performing these activities will have a disproportionate impact on smaller operators. Courts have acknowledged that costs are irreparable when they threaten the existence of a company's business.[71] Smaller operators would be forced to devote the majority of their operating costs to complete the classification work, including field verification efforts, in order to meet the reporting and classification deadlines. ICF estimated that 90% of these smaller operators' budget would be spent on initial compliance and understanding of the gathering rule. The data indicated that small operators will be the most economically burdened by the rulemaking, forcing many operators to shut-in wells or flare their produced gas.[72]

PHMSA's ability to issue civil penalties and compliance orders for failing to submit these reports, further compounds these costs. PHMSA has the ability to issue a civil penalty up to

[69] 49 C.F.R. § 192.14.
[70] *Texas v. U.S. Envtl. Prot. Agency*, 829 F.3d 405, 433 (5th Cir. 2016) (quoting *Thunder Basin Coal Co. v. Reich*, 510 U.S. 200, 220–21 (1994) (Scalia, J., concurring in part and concurring in the judgment)).
[71] *Wisconsin Gas Co.,* 758 F. 2d at 674 (citing *Wash. Metro. Area Transit Comm'n.,* 559 F.2d at 843).
[72] API 2016 ICF Study at 6.

$225,134 per day for a violation and a total civil penalty of $2,251,334 for violations related in a series.[73] Given that the reporting deadlines precede the classification requirements, operators who file an incorrect or incomplete incident or safety-related condition report could be subject to civil penalties. Proceeding without a stay while the Agency reviews the Petition will not only create nonrecoverable compliance costs but it will also threaten the existence of some of the smaller operators.

3. There will be no countervailing effect of a stay and the public interest favors a stay.

When reviewing a request for a stay in a case involving the government, courts have considered the third and fourth prong of the standard in tandem.[74] In this case, the irreparable harm against the Associations' members if a stay is not granted outweighs any impact to the Agency or the public. There is public interest in the Agency complying with its statutory obligations for rulemakings and ensuring that a legally sound rule is issued. There "is generally no public interest in the perpetuation of unlawful agency actions."[75] Here, a stay will allow PHMSA to engage in a process that will result in a more thorough and legally supportable Final Rule.

Granting a stay until the Petition can be resolved would not detrimentally impact the Agency. The Agency spent over ten years developing and finalizing these new regulations.[76] A short stay to allow the Agency to review the Petition without creating unnecessary impacts on the Associations' members is appropriate.

D. Conclusion

For the reasons provided in this Motion, PHMSA should grant a stay of the requirements in 49 C.F.R. §§ 191.3, 191.5, 191.15(a)(1), 191.17(a)(1), 191.23(a), 192.8(a)(5), and 192.8(b)(1) of the Final Rule pending review of the Petition.

[73] 49 U.S.C. § 60122(a)(1); *see also,* Civil Penalty Amounts, 86 Fed. Reg. 23, 241, 23,247 (May 3, 2021).
[74] *Soundboard Ass'n. vs. U.S. Fed. Trade Comm'n.,* 254 F. Supp. 3d 7, 14 (D. D.C. 2017) (citing *Pursuing Am.'s Greatness v. FEC,* 831 F.3d 500, 511 (D.C. Cir. 2016)); *see also,* Nken, 556 U.S. at 435.
[75] *Texas v. Biden*, 10 F.4th 538, 560 (5th Cir. 2021) (quoting *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016)).
[76] PHMSA first examined whether it should modify the regulations covering gas gathering pipelines in an Advance Notice of Proposed Rulemaking in 2011. This process culminated in the Final Rule dated November 15, 2021.

Respectfully Submitted,

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