UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Five-Year Review of the Oil Pipeline Index) Docket No. RM15-20-000

STATEMENT OF STEVEN M. KRAMER FOR JULY 30 CONFERENCE ON BEHALF OF THE ASSOCIATION OF OIL PIPE LINES

I am Steven M. Kramer, Senior Vice President, General Counsel and Corporate Secretary of the Association of Oil Pipe Lines ("AOPL"). AOPL represents the interests of oil pipelines regulated by the Commission. AOPL members transport approximately 90% of the crude oil and refined petroleum products shipped through pipelines in the U.S.

AOPL appreciates the opportunity to participate in today's Conference on the Commission's five-year review of the oil pipeline rate index. This proceeding marks the Commission's fourth five-year review of the oil pipeline rate index. The oil pipeline rate index is the predominant form of ratemaking implemented by oil pipelines. Index-based rates have proven to be an effective "simplified and generally applicable" ratemaking methodology for oil pipelines, as required by Congress in the Energy Policy Act of 1992.[1]

The Notice of Inquiry initiating this proceeding includes a proposed index in the range of PPI-FG + 2.0-2.4%, to be effective for the five-year period commencing July 1, 2016. The Notice says the proposal is based on the methodology developed by Dr. Alfred E. Kahn (the so-called "Kahn Methodology"), that was established in Order No. 561. AOPL agrees that an appropriate calculation of the rate index should be based on the Kahn Methodology.

With me today, appearing on behalf of AOPL, is Dr. Ramsey Shehadeh, a Senior Vice President with NERA Economic Consulting. Dr. Shehadeh is a leading expert on the oil pipeline rate index, having worked with Dr. Kahn in the development of the oil pipeline rate index methodology, in support of Dr. Kahn's participation in previous five-year review proceedings, and then employing the Kahn Methodology in his testimony in subsequent five-year review proceedings before the Commission.

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1 Pub. L. No. 102-486, 106 Stat. 2776, Title XVIII (1992).

As Dr. Shehadeh will discuss, while the methodology employed in the analysis provided with the Notice of Inquiry accurately implements the basic framework of the Kahn Methodology, it departs from the methodology in one material respect – including only 50% of the Form 6 data sample when a larger sample of accurate Form 6 data is available to calculate the rate index. As Dr. Shehadeh will explain, using both the middle 50% and middle 80% of Form 6 data in the calculation will produce a rate index that is more reflective of industry experience. The U.S. Court of Appeals for the D.C. Circuit has recognized that, "the object of excluding outliers is to prevent extreme and spurious data from biasing an analysis, i.e., affecting its result adversely."[2] AOPL believes an approach that relies on the middle 50% of data exclusively, and thus removes the cost change experience of 50% of the oil pipeline industry, goes well beyond eliminating data that is "spurious" or "extreme," but rather, eliminates data that is appropriately used to produce a rate index that approximates the experience of a reasonably efficient pipeline operator.

Dated: July 29, 2015

[2] *AOPL v. FERC,* 281 F.3d 239, 246 (D.C. Cir. 2002).