



## **FERC Permits Oil and Liquid Pipelines to Increase Index Rates by over 13%**

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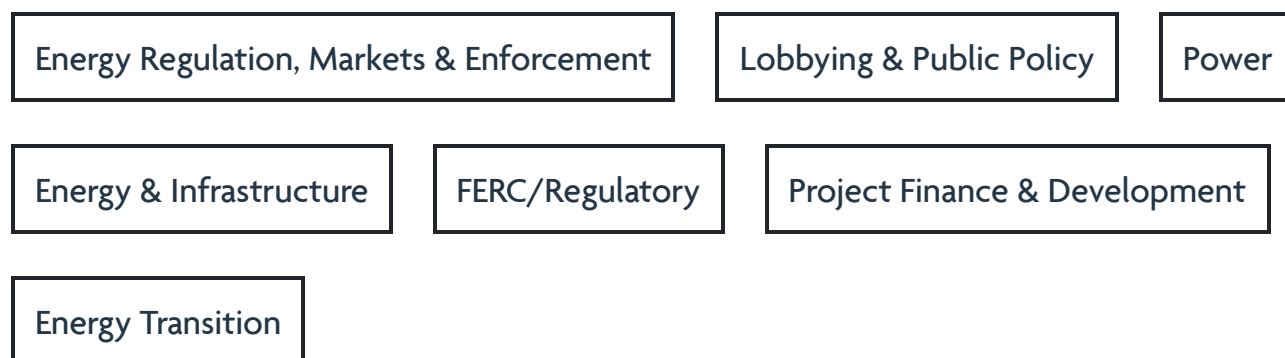
Effective July 1, 2023, oil and liquids pipelines regulated by the Federal Energy Regulatory Commission (FERC) and charging so-called “index” rates will be able to increase their rates by over 13 percent. FERC announced this change on May 16, 2023 in its Notice of Annual Change in Producer Price Index for Finished Goods (PPI-FG). This year, FERC’s index rate formula of PPI-FG minus 0.21% results in a positive 0.133194, meaning that oil pipelines are required to multiple their July 1, 2022 through June 30, 2023 index ceiling levels by 1.133194 to compute their index ceiling levels for July 1, 2023 through June 30, 2024. This is the largest index rate increase since FERC initiated this methodology in the 1990s. The PPI-FG index is tied to inflation. Last year, the index ceiling increased by nearly 9%.

FERC’s authority to regulate interstate oil and liquids pipeline rates stems from the Interstate Commerce Act. The PPI-FG index rate originated with FERC Order No. 561, which it issued in 1993 following passage of the Energy Policy Act of 1992 and congressional directives to simplify oil pipeline ratemaking. Pipelines are permitted to change rates based upon an annual index as opposed to making cost-of-service filings. FERC must review the index level every five years to ensure that the index level accurately reflects changes to industry costs. This results in a five-year index that is backwards-looking and based on historical costs, but which is updated every year to reflect inflationary changes. The current five-year index of PPI-FG minus 0.21% was set in January 2022 following a contentious proceeding in which FERC initially had set the five-year index to be PPI-FG plus 0.78% in December 2020. Due to inflation, even with the five-year index decreasing by 0.91% between December 2020 and January 2022, pipeline rates have continued to rise for the past two years. As we noted in a prior Speaking

Energy [blog.post](#), inflation has also led to larger-than-normal increases in FERC's penalty authority.

Index rates are the most popular form of pipeline ratemaking for interstate oil and liquids pipelines. If an existing pipeline wants to charge a cost-of-service rate, it must make an evidentiary showing to FERC that the index rate is not "just and reasonable" due to a "substantial divergence" between the pipeline's actual costs and what it is permitted to charge under the index. Alternatively, the pipeline could seek authority to charge market-based rates, which also requires an evidentiary showing focused on lack of market power, or gain approval from every current system shipper permitting the use of an alternative rate.

## Categories



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